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## Canada and the 2001 United Nations World Conference against Racism

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Graduate Program in Political Science  
A thesis submitted in partial fulfillment of the requirements for the degree in Doctor of Philosophy  
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CANADA AND THE 2001 UNITED NATIONS  
WORLD CONFERENCE AGAINST RACISM

(Thesis format: Monograph)

by

Steven Joseph Seligman

Graduate Program in Political Science

A thesis submitted in partial fulfillment  
of the requirements for the degree of  
Doctor of Philosophy

The School of Graduate and Postdoctoral Studies  
The University of Western Ontario  
London, Ontario, Canada

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## **ABSTRACT**

The 2001 United Nations World Conference against Racism (WCAR) was one of the most controversial United Nations events of the post-Cold War era. Major issues on the agenda included the Middle East, the question of reparations for the transatlantic slave trade and colonialism, and the rights of indigenous peoples. Utilizing interviews with government and non-governmental actors as well as archival material, this dissertation examines Canada's preparations for, and participation at, the WCAR as a case study to explore key theoretical debates about the Canadian foreign policy-making process. At the international level, Canada was an active participant during the multilateral negotiations in advance of the conference and at the conference itself. Drawing on the literature examining Canada as either a middle power, a satellite state or a principal power, this dissertation suggests that Canadian diplomacy did not fit easily into any one framework. On some occasions, Canada embraced middle power diplomacy; on other occasions, it embraced the positions advanced by the United States and other Western countries. At the domestic level, Canada established a consultation process involving many Canadian stakeholders intended to help shape the government's position on key issues. Drawing on the literature examining the Canadian state as either pluralist, Marxian or statist, this dissertation suggests that the Canadian state wielded considerable autonomy from domestic actors and generally sought to define and advance its own interest, as expected by the statist view.

## **KEYWORDS**

Canadian Foreign Policy, United Nations, World Conference against Racism

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\* \* \*

Naturally, I alone am responsible for any errors or omissions contained in this dissertation.

## TABLE OF CONTENTS

ABSTRACT.....	ii
ACKNOWLEDGEMENTS .....	iii
TABLE OF CONTENTS.....	v
CHAPTER 1: INTRODUCTION .....	1
1.1 - Canada and the World Conference against Racism.....	9
1.2 - The two research questions.....	12
1.3 - Methodology.....	19
1.4 - Organization of the dissertation.....	21
CHAPTER 2: LITERATURE REVIEW .....	23
2.1 - State autonomy and the domestic determinants of Canadian foreign policy.....	23
2.1.1 - Theories of the state.....	25
2.1.2 - Theories of the state and Canadian foreign policy .....	29
2.1.3 - Interest groups and foreign policy .....	32
2.1.4 - Interest groups and Canadian foreign policy .....	34
2.1.5 - The democratization of Canadian foreign policy .....	37
2.1.6 - The domestic determinants of Canadian policy toward the World Conference against Racism .....	39
2.2 – Canada on the world stage .....	40
2.2.1 - Canada as a middle power .....	42
2.2.2 - Canada as a satellite/dependent power .....	47
2.2.3 - Canada as a foremost/principal power.....	51
2.2.4 - Canada on the world stage at the World Conference against Racism .....	52
CHAPTER 3: UN CONFERENCES AND PREVIOUS CONFERENCES ON RACISM .....	54
3.1 - United Nations Conferences .....	54
3.2 - United Nations Conferences on Racism .....	58
3.2.1 - The World Conference to Combat Racism and Racial Discrimination.....	59
3.2.2 - The Second World Conference to Combat Racism and Racial Discrimination.....	65
3.3 - Conclusion .....	69

CHAPTER 4: THE INTERNATIONAL PREPARATIONS (PART I) .....	70
4.1 - The First Preparatory Committee Meeting .....	70
4.2 - The Regional Conference of the Americas .....	84
4.2.1 - Indigenous peoples .....	92
4.2.2 - People of African descent, the transatlantic slave trade, colonialism and reparations .....	104
4.2.3 - Other Issues .....	107
4.3 - Other Regional Preparatory Meetings .....	111
CHAPTER 5: THE DOMESTIC PREPARATIONS .....	115
5.1 - Roundtable with civil society on consultations process (May 15, 2000) .....	116
5.2 - Civil society consultations framework paper .....	119
5.3 - Second roundtable with civil society on consultations process (July 5, 2000) ..	122
5.4 - Discussion paper for Canada's preparations for the World Conference .....	125
5.5 - Early efforts to engage Canadian youth.....	129
5.6 - Creating the domestic institutional framework .....	131
5.7 - The domestic consultations.....	134
CHAPTER 6: THE INTERNATIONAL PREPARATIONS (PART II).....	148
6.1 - The Meetings of the Inter-sessional Working Group .....	148
6.2 - The Second Preparatory Committee Meeting .....	159
6.3 - The Group of 21: Between the Second and Third Preparatory Committee Meetings.....	169
6.4 - The Third Preparatory Committee Meeting .....	172
6.5 - Conclusion .....	181
CHAPTER 7: THE WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE .....	183
7.1 - The International Youth Summit.....	184
7.2 - The NGO Forum.....	190
7.3 - The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.....	203
7.4 - Conclusion .....	222
CHAPTER 8: CONCLUSION .....	225
8.1 - State autonomy and the domestic determinants of Canadian foreign policy.....	226
8.2 - Canada on the world stage.....	235
BIBLIOGRAPHY .....	243
APPENDIX A: INTERVIEWEES .....	261
CURRICULUM VITAE .....	263

## CHAPTER 1: INTRODUCTION

On December 12 1997, the United Nations General Assembly adopted Resolution 52/111, which, *inter alia*, decided to convene a World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR). The conference was intended to advance a wide-ranging agenda and serve as the focal point of global efforts to combat racism in the new century. It would review progress made in the fight against racism, consider ways to strengthen existing standards to fight racism, and provide concrete recommendations to increase the effectiveness of the United Nations (UN) machinery to combat racism.<sup>1</sup> It would be the UN's third conference on racism, and stakeholders hoped that it could avoid the controversies and political divisions that had marred the previous two conferences in 1978 and 1983. These events had been dominated by discussions about the apartheid regime in South Africa and the Israeli-Palestinian conflict. The United States (US) and Israel boycotted both conferences as a result of the 1975 General Assembly resolution that labeled Zionism as a form of racism, while 14 Western states—including Canada—walked out of the 1978 conference on its closing day to protest language critical of Israel. Neither conference was particularly successful in establishing a foundation for subsequent efforts to combat racism at the global level. But by the 1990s, new global developments gave reason to believe that a third world conference against racism could be different. In 1991, the General Assembly revoked the Zionism-is-racism resolution. Three years later, the apartheid regime in South Africa came to an end. With these contentious issues off the agenda, some saw an opportunity for the United Nations to take a fresh look at the issues of racism and racial

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<sup>1</sup> United Nations General Assembly Resolution A/RES/52/111.



discrimination. The subsequent selection of post-apartheid South Africa as the venue for the conference was intended to serve as a powerful indicator that global progress against racism was real and achievable.

The World Conference against Racism, held from August 31 to September 8 2001, in the city of Durban, produced a Declaration and Programme of Action (DPA) that addressed a variety of issues of concern to many diverse peoples and groups that have been victims of racism, racial discrimination, xenophobia or related intolerance.<sup>2</sup> The formal title of the event was the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which was selected to ensure a broad mandate that would facilitate discussion of a wide array of issues. Among the peoples and groups identified in the DPA are: indigenous peoples, Africans and people of African descent, Asians and people of Asian descent, Roma/Gypsies/Sinti/Travellers, Jews, Palestinians, Arabs, Muslims, Mestizo populations, migrant workers, asylum seekers, internally displaced persons, refugees, and persons belonging to national, ethnic, linguistic or religious minorities. For various geopolitical reasons, the scope and content of the DPA's language with respect to each of these peoples and groups differed according to the preferences of UN Member States and the nature of the negotiation process that produced the Declaration and Programme of Action. While not a legally binding document, the DPA nevertheless established normative standards and benchmarks that can be used by states and civil society actors alike to measure the performance of states and hold them accountable for the commitments made in the document.

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<sup>2</sup> World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, "Report of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance." A/CONF.189/12.

Although all UN Conferences experience their own set of difficulties as states with diverse interests attempt to form a consensus on contentious issues, the World Conference against Racism was far more divisive than the norm. While there were many issues on the agenda, the World Conference was dominated by contentious debates about the Middle East and the issue of reparations for the transatlantic slave trade and colonialism. The debate about the Middle East polarized states exactly as it had done at the previous racism conferences, and at various other UN organs, such as the General Assembly and the Human Rights Commission/Council. In Durban, draft versions of the declaration and programme of action contained claims that Zionism was “based on racial superiority” and that Israel was practicing “a new kind of apartheid.”<sup>3</sup> While Arab and Muslim states felt that the Middle East was a legitimate topic of discussion for the conference and pushed for inclusion of such language, Western states rejected the substance of these claims and asserted that it was not appropriate for the conference to discuss the Middle East because the issue concerned a political conflict rather than a racial one. On the issue of reparations for the transatlantic slave trade and colonialism, African states pushed for language in the DPA that would label the slave trade a “crime against humanity” and demanded that Western states offer an apology and some form of reparations for past injustices. Western states opposed the use of the term “crime against humanity” and the calls for reparations, arguing that international law did not prohibit the transatlantic slave trade at the time that it was committed, although some European states were willing to offer a symbolic public apology that carried no further obligations.

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<sup>3</sup> World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, “Conference Themes: Draft Declaration.” A/CONF.189/4; World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, “Conference Themes: Draft Programme of Action.” A/CONF.189/5.

After four days of bitter debate in Durban on these issues, the United States and Israel withdrew their delegations from the conference to protest the language being used to describe Israel and Zionism. Several participants in Durban felt that the US decision to leave was also motivated unofficially by a desire to avoid discussion of the reparations issue. At any rate, those states that remained faced tremendous difficulty negotiating a final version of the Declaration and Programme of Action, so much so that the conference reached its final scheduled day without states having reached a consensus on the most divisive issues on the agenda. As a result, UN organizers had to extend the conference one more day to give states additional time to do so, which they eventually did at the eleventh hour. In the end, the Declaration and Programme of Action contained a few references to the Middle East peace process, “call[ing] for the end of violence” in the region, expressing concern about “the plight of the Palestinian people under foreign occupation,” affirming both the “inalienable right of the Palestinian people to self-determination” and the “right to security for all States in the region, including Israel.” The final version of the DPA did not contain any claims that Zionism is a form of racism or that Israel is an apartheid state. On the issue of slavery and reparations, the Declaration and Programme of Action stated that “slavery and the slave trade are a crime against humanity and should always have been so, especially the transatlantic slave trade” and urged states to take measures at the national level to “ensure the right of victims to seek just and adequate reparation” for racially-motivated injustices.

Given the acrimonious context in which it was drafted, it was not surprising that the Declaration and Programme of Action failed to please everyone. States on all sides of the debates expressed dissatisfaction with the compromise language reached. Quite

simply, there was no possibility of genuine consensus among states given the significance of the disagreements they expressed during the conference. As a result, several states issued statements on the final day of the conference formally disassociating themselves from portions of the DPA and the legacy of the World Conference against Racism remains mired in controversy. Indeed, for many, the debates about the Middle East came to define the entire conference.

Since the 1970s, it has become common for UN conferences to be accompanied by parallel non-governmental organizations (NGO) conferences which are intended to provide opportunities for civil society to raise public awareness of issues of concern, to develop national and transnational networks of NGOs working on common issues, and to engage in the process of global governance. The main assumption underlying these NGO conferences is that the global governance process should not be the exclusive domain of states, but instead requires meaningful participation from a larger set of non-state actors. In this spirit, the Durban conference was preceded by both a Youth Summit, held from August 26 to 27, 2001, as well as an NGO Forum held from August 28 to September 1, 2001. Both the Youth Summit and the NGO Forum produced their own respective Declaration and Programme of Action.<sup>4</sup>

The Youth and NGO documents addressed many of the same issues addressed by states in the Declaration and Programme of Action, but also included some issues that were left out by states, such as the rights of the Dalits. Compared to the DPA produced by states, both the Youth and NGO documents contained language that was substantially more critical of governments and the status quo. In this context, the NGO Declaration and

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<sup>4</sup> International Youth Summit Declaration and Programme of Action. (August 26-27, 2001); WCAR NGO Forum Declaration and Programme of Action. (September 3 2001).

Programme of Action became particularly infamous for its inflammatory characterizations of Israel. Whereas negotiations among states eventually led to the removal of the most extreme language, NGOs experienced no similar moderating effects. The NGO Declaration and Programme of Action thus contained numerous references to Israel as a racist and apartheid state, accused Israel of committing genocide against the Palestinians, called for the UN General Assembly to reinstitute the Zionism-is-racism resolution, and further called for the “international community to impose a policy of complete and total isolation of Israel.” As a result of such language, Mary Robinson, the UN High Commissioner for Human Rights and the Secretary-General of the conference, took the unprecedented step of declining to recommend to states that they consider the NGO Declaration and Programme of Action during the government conference.<sup>5</sup> Robinson’s decision meant that the NGO Declaration and Programme of Action did not become an official UN document, and was a powerful indictment of how problematic the Durban NGO Forum had become.

Several academics, lawyers, politicians, and other commentators have examined the World Conference against Racism from a variety of perspectives. Theo van Boven, a former member of the UN Committee on the Elimination of Racial Discrimination, suggests that a “close and focussed analysis of the work of the Conference, including the preparatory processes conducted at regional and national levels, would probably warrant a more favourable appraisal than the opinions of those who declared the Conference dead on arrival. It would, however, be an overstatement to classify the Conference as an

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<sup>5</sup> Major international NGOs, such as Amnesty International and Human Rights Watch, also abstained from endorsing the NGO Declaration and Programme of Action.

historic event.”<sup>6</sup> Ulrika Sundberg, a legal advisor to the Permanent Mission of Sweden to the United Nations, writes that “despite the different priorities and concerns of the respective regions and interests groups, the documents adopted in Durban do contain tools and recommendations that could be effective in the combat against racism.”<sup>7</sup> Manfred Nowak, co-founder of the Vienna-based Ludwig Boltzmann Institute of Human Rights, argues that the Durban Declaration and Programme of Action contain “little more than the general statements we have come to know from conventions and declarations made by the United Nations and regional organizations in the past”<sup>8</sup> Christopher Camponovo, a legal advisor to the United States delegation to the World Conference against Racism, concludes that “the Durban process was a disaster. The Conference that ultimately failed cost an exorbitant sum of money and it is questionable whether it made any progress in the global fight against racism, racial discrimination, xenophobia, and related intolerance.”<sup>9</sup>

In 2002, United States Congressman Tom Lantos referred to the World Conference as an “anti-American, anti-Israeli circus” and a “serious breakdown in United Nations diplomacy”<sup>10</sup> While assigning some blame to the unilateralist foreign policy of the administration of George W. Bush and to the leadership of United Nations High

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<sup>6</sup> Theo van Boven, “World Conference Against Racism: An Historic Event?” *Netherlands Quarterly of Human Rights* 19, 4 (2001): 379.

<sup>7</sup> Ulrika Sundberg, “Durban: The Third World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,” *International Review of Penal Law* 73 (2002): 317.

<sup>8</sup> Manfred Nowak, *Introduction to the International Human Rights Regime* (Leiden: Martinus Nijhoff Publishers, 2003): 153.

<sup>9</sup> Christopher Camponovo, “Disaster in Durban: The United Nations World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,” *The George Washington International Law Review* 34, 4 (2003): 708.

<sup>10</sup> Tom Lantos, “The Durban Debacle: An Insider’s View of the UN World Conference against Racism,” *The Fletcher Forum of World Affairs* 26, 1 (2002): 31-32.

Commissioner for Human Rights Mary Robinson, Lantos assigned principal blame to a few states in the Organization of the Islamic Conference. In response to Lantos, Gay McDougall, a former member of the UN Committee on the Elimination of Racial Discrimination, accused him of using “only one yardstick to measure the worth and effectiveness of the conference: whether it was sufficiently supportive of Israel’s policies in the West Bank and Gaza Strip. In taking that measurement, he and those who join in his cause either misunderstand or misconstrue a process that took place over a three-year period, and they disregard its many positive outcomes”<sup>11</sup> In two other responses to Lantos, Jerry Leaphart, a American lawyer who attended the NGO Forum, suggests that “it is misleading, to put it mildly, for Mr. Lantos to have referred to WCAR as anything other than a successful UN conference”<sup>12</sup> while Michael Posner and Wade Henderson, two American lawyers who attended the NGO Forum, state that they “reject Congressman Lantos’ apocalyptic assessment of Durban. While recognizing the meeting’s serious failures, we nonetheless believe that the World Conference prevailed in many ways.”<sup>13</sup>

Other assessments of the World Conference have focused in more detail on how it addressed specific issues, such as the Middle East,<sup>14</sup> reparations for the transatlantic slave

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<sup>11</sup> Gay McDougall, “The World Conference against Racism: Through a Wider Lens,” *The Fletcher Forum for World Affairs* 26, 2 (2002): 136.

<sup>12</sup> Jerry Leaphart, “The World Conference against Racism: What Was Really Achieved,” *The Fletcher Forum for World Affairs* 26, 2 (2002): 154.

<sup>13</sup> Michael Posner and Wade Henderson, “A Response to Tom Lantos’ ‘The Durban Debacle,’” *The Fletcher Forum for World Affairs* 27, 1 (2003): 6.

<sup>14</sup> Anne Bayefsky, “The UN World Conference against Racism: A Racist anti-Racism Conference,” *Proceedings of the Annual Meeting (American Society of International Law* 96 (2002): 65-74; Irwin Cotler, “Durban’s Troubling Legacy One Year Later: Twisting the Cause of International Human Rights against the Jewish People,” *Jerusalem Center for Public Affairs, Jerusalem Issue Brief* 2, 5 (2002, August 20): <http://www.jcpa.org/brief/brief2-5.htm>; Harris O. Schoenberg, “Demonization in Durban: The World

trade and colonialism,<sup>15</sup> the rights of indigenous peoples,<sup>16</sup> the intersectionality of race, ethnicity and gender,<sup>17</sup> and the impact of the World Conference on domestic politics in South Africa.<sup>18</sup> Thus, there is a considerable amount of analysis about the World Conference against Racism generally or about how specific issues were addressed.

## 1.1 - Canada and the World Conference against Racism

The role of Canada at the World Conference has received far less attention, although Canada was an active participant throughout the entire World Conference process and undertook considerable work in preparation at both the domestic and international level. The majority of this preparatory work was performed by the Multicultural Program within the Department of Canadian Heritage, which organized Canada's domestic approach, and the Department of Foreign Affairs and International Trade, which led Canada's negotiations abroad. At the domestic level, Canada's

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Conference against Racism," *American Jewish Year Book* (2002): 85-111; Raphael Walden, "The Drafting of the Articles on the Middle East and Anti-Semitism at the Durban Conference against Racism," in *Racism and Human Rights*, ed. Raphael Walden, (Leiden: Martinus Nijhoff Publishers, 2004), 165-176.

<sup>15</sup> Michelle E. Lyons, "World Conference against Racism: New Avenues for Slavery Reparations?" *Vanderbilt Journal of Transnational Law* 35 (2002): 1235-1268; Suhas Chakma, "The Issue of Compensation for Colonialism and Slavery at the World Conference against Racism: A Fine Balance Between Rhetoric and Legality," in *Human Rights in Development Yearbook 2001*, eds. George Ulrich and Louise Krabbe-Boserup, (Frederick, MD: Kluwer Law International, 2003), 57-71.

<sup>16</sup> Darren Dick, "The United Nations World Conference against Racism," *Indigenous Law Bulletin* 5, 13 (2001): 5-7; Martin Nakata, ed., *Indigenous Peoples, Racism and the United Nations* (Australia: Common Ground Publishing, 2001); Alberto Saldamando, "The World Conference against Racism: Continuing Racism against Indigenous Peoples," International Indian Treaty Council (undated): [http://www.treatycouncil.org/section\\_211442.htm#\\_edn1](http://www.treatycouncil.org/section_211442.htm#_edn1)

<sup>17</sup> Celina Romany and Katherine Culliton, "The UN World Conference against Racism: A Race-Ethnic and Gender Perspective," *Human Rights Brief* 9, 2 (2002): 14-17.

<sup>18</sup> Peggy Maisel, "Lessons from the World Conference against Racism: South Africa as a Case Study," *Oregon Law Review* 81 (2002): 739-770.



preparations were led by Hedy Fry, the Secretary of State for Multiculturalism and the Status of Women, who launched several key initiatives leading up to Durban. In the spring of 2000, Canadian Heritage established a national secretariat to help coordinate Canada's policies toward the conference. Between September 2000 and April 2001, the secretariat organized six regional consultations across Canada and one national consultation to provide civil society organizations an opportunity to offer their input to the government.<sup>19</sup> The secretariat also organized a national Aboriginal consultation, a Northern consultation and a Youth Forum.<sup>20</sup> More than 1,000 individuals representing Aboriginal organizations, NGOs, academia and other groups attended at least one of these meetings. Additionally, Hedy Fry established an Advisory Committee that comprised more than 20 individuals representing a diverse cross-section of Canadian civil society that functioned as a liaison between government and civil society, and prepared research reports for the government's consideration. A separate Aboriginal Advisory Committee was later formed to serve the same functions with respect to Aboriginal communities. Further, Canada provided financial support to 63 Canadian NGOs to send delegates to attend the NGO Forum in Durban, and even selected a few NGO officials to serve on the official government delegation in Durban.

In addition to these domestic initiatives, Canada's preparations for Durban involved a significant amount of diplomatic work at the international level. Like all UN conferences, the road to the World Conference against Racism involved substantial organizational work by the UN Secretariat and various organs and branches within the

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<sup>19</sup> Regional consultations took place in Vancouver, Edmonton, Winnipeg, Toronto, Montreal and Halifax. The national consultation took place in Ottawa.

<sup>20</sup> The Aboriginal consultation took place in Winnipeg, the Northern consultation took place in Iqaluit, and the Youth Forum took place in Ottawa.

world body, such as the Commission on Human Rights, which served as the preparatory committee for the Durban conference. It was, however, at the inter-governmental preparatory conferences that the more substantive preparations for Durban began. There, states engaged in the difficult tasks of establishing the agenda of the World Conference against Racism, organizing the logistical arrangements, and, most importantly, beginning the work of negotiating the draft versions of the conference declaration and programme of action. Three inter-governmental preparatory conferences were held in Geneva; the first from May 1-5, 2000, the second from May 21-June 1, 2001, and the third from July 30-August 10, 2001. Canada sent a delegation to all three and was actively involved in the negotiations that took place at each. These meetings were supplemented by two inter-sessional working groups that were held in Geneva from March 6-9 and May 7-11, 2001, and an informal meeting in Geneva held from January 15 to 16, 2001, all of which Canada attended. Furthermore, UN Member States held four regional preparatory meetings between October 2000 and February 2001. A meeting of states in the Americas, which included the United States and Canada as participants, occurred in Santiago, Chile from December 5-7, 2000, while regional meetings also occurred in Europe (Strasbourg), Africa (Dakar), and Asia (Tehran). Thus, Canada's preparations for, and participation at, the World Conference against Racism was a multifaceted endeavour that combined elements of international diplomatic negotiation with domestic governmental politics that included wide-ranging consultations with various key stakeholders in Canada.

## 1.2 - The two research questions

Despite the considerable amount of analysis that has been done on the World Conference generally, little academic analysis has been done on the role that Canada played at the World Conference.<sup>21</sup> Indeed, the only academic analysis available is a chapter on the Durban Conference that appears in Andrew F. Cooper's 2004 book, *Tests of Global Governance: Canadian Diplomacy and United Nations World Conferences*.<sup>22</sup> Cooper's central goal is to examine UN conferences as examples—or “tests”—of how global governance processes have evolved during the post-Cold War era and to assess the implications of this evolution on international politics. Canada is examined as a case study through which to examine the contours and development of these broader international and multilateral processes and institutions.

This dissertation approaches the topic from a different perspective. It uses the World Conference against Racism as a case study to examine the domestic and international determinants of the Canadian foreign policy-making process. It examines two central theoretical questions. First, to what extent was the Canadian state autonomous from civil society and non-state actors during the creation and implementation of its policy toward the World Conference against Racism? Second, what role did Canada play internationally during the negotiations that led to the Durban Declaration and Programme

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<sup>21</sup> There is a growing body of research that examines the role of Canada at other UN Conferences, particularly those held during the 1990s. The Canadian experience with the World Conference against Racism was shaped, in part, by its experience at these conferences. See Elizabeth Riddell-Dixon, *Canada and the Beijing Conference on Women: Governmental Politics and NGO Participation* (Vancouver: University of British Columbia Press, 2001); Andrew F. Cooper, *Tests of Global Governance: Canadian Diplomacy and United Nations World Conferences* (Tokyo: United Nations University Press, 2004).

<sup>22</sup> Cooper, *Tests of Global Governance*.

of Action and how can this role be assessed against competing theories of Canada's role on the world stage?

The first question concerns the domestic determinants and processes of Canadian foreign policy and explores the extent to which the Canadian state is able to operate autonomously from civil society and non-state actors during the creation and implementation of foreign policy. This question itself can be explored from a variety of angles. First, there is the debate between proponents of statist theory and proponents of the dominant class approach. According to the statist view, the Canadian state enjoys considerable autonomy from civil society and is largely insulated from domestic pressures in its definition and pursuit of the national interest.<sup>23</sup> By contrast, the dominant class approach argues that non-state actors serving the interests of business enjoy considerable access to, and influence over, the Canadian state, which is constrained significantly by the structural pressures of the capitalist economy.<sup>24</sup> Second, there are debates about the extent to which the state is able and willing to "democratize" the Canadian foreign policy making process by making it more transparent, inclusive and accountable to civil society organizations and to the public at large.<sup>25</sup> Third, research

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<sup>23</sup> David Dewitt and John Kirton, *Canada as a Principal Power* (Toronto: John Wiley & Sons, 1983); Kim Richard Nossal, "Analyzing the Domestic Sources of Canadian Foreign Policy," *International Journal* 39, 1 (1983/84): 1-22; Kim Richard Nossal, "Mixed Motives Revisited: Canada's Interest in Development Assistance," *Canadian Journal of Political Science*, 21, 2 (1988): 35-56; Elizabeth Riddell-Dixon, "State Autonomy and Canadian Foreign Policy: The Case of Deep Seabed Mining," *Canadian Journal of Political Science* 21, 2 (1988): 297-317; Riddell-Dixon, *Canada and the Beijing Conference*; Peter McKenna, "Canada's Policy Towards Latin America: A Statist Interpretation," *International Journal*, 49, 4 (1994): 929-953.

<sup>24</sup> Cranford Pratt, "Dominant Class Theory and Canadian Foreign Policy: The Case of the Counter-Consensus," *International Journal* 39, 1 (1983/84): 99-135; Cranford Pratt, "Competing Perspectives on Canadian Development Assistance Policies," *International Journal*, 51, 2 (1996): 235-258.

<sup>25</sup> Kim Richard Nossal, "The Democratization of Canadian Foreign Policy: The Elusive Ideal," in *Canada Among Nations, 1995: Democracy and Foreign Policy*, eds. Maxwell Cameron and Maureen Appel Molot. (Ottawa: Carleton University Press, 1995), 29-43; Mark Neufeld, "Democratization in/of Canadian Foreign

focusing directly on the activities and influence of Canadian NGOs and interest groups has also considered their capacity to contribute to the shaping of Canadian foreign policy.<sup>26</sup> Especially pertinent here are studies that focus on racial, ethnic or religious-based organizations.<sup>27</sup> In general, most scholars of Canadian foreign policy agree with the statist assumption and suggest that the foreign policy making process is largely driven by government elites who have wide latitude to shape policy free from the constraints of public opinion and NGO and interest group pressure. The examination of Canada's approach to the World Conference against Racism is intended to provide fresh evidence and insight into these questions. The nature of Canada's domestic consultations with civil society and its relationship with various NGOs throughout the Durban process makes it a useful case study to address questions about state autonomy and state-society relations in the context of the Canadian foreign policy making process.

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Policy: Critical Reflections," *Studies in Political Economy* 58 (1999): 97-119; John Hay, "Practicing Democratic Foreign Policy: DFAIT's Consultations with Canadians," *Canadian Foreign Policy Journal* 8, 1 (2000): 123-129; Elizabeth Riddell-Dixon, "Democratizing Canadian Foreign Policy? NGO Participation for the Copenhagen Summit for Social Development and the Beijing Conference on Women," *Canadian Foreign Policy Journal* 11, 3 (2004): 99-118; James McCormick, "Democratizing Canadian Foreign Policy," *Canadian Foreign Policy Journal* 13, 1 (2006): 113-131.

<sup>26</sup> Elizabeth Riddell-Dixon, *The Domestic Mosaic: Interest Groups and Canadian Foreign Policy* (Toronto: Canadian Institute of International Affairs, 1985).

<sup>27</sup> David Taras and David H. Goldberg, eds. *The Domestic Battleground: Canada and the Arab-Israeli Conflict* (Kingston: McGill-Queen's University Press, 1989); David H. Goldberg, *Foreign Policy and Ethnic Interest Groups: American and Canadian Jews Lobby for Israel* (New York: Greenwood Press, 1990); David Taras and Morton Weinfeld. "Continuity and Criticism: North American Jews and Israel," *International Journal* 45 (1990): 661-684; Peyton V. Lyon, "The Canada Israel Committee and Canada's Middle East Policy," *Journal of Canadian Studies*, 27, 4 (1992): 5-25; Liat Radcliffe Ross, "Canadian Muslims and Foreign Policy," *International Journal* 63, 1 (2007/08): 187-205; Elizabeth Riddell-Dixon, "Assessing the Impact of Recent Immigration Trends on Canadian Foreign Policy," in *The World in Canada: Diaspora, Demography and Domestic Politics*, eds. David Carment and David Bercuson. (Montreal: McGill-Queen's University Press, 2008), 31-49; Brent Sasley and Tami Amanda Jacoby, "Canada's Jewish and Arab Communities and Canadian Foreign Policy." In *Canada and the Middle East: In Theory and Practice*, eds. Paul Heinbecker and Bessma Momani. (Waterloo: Wilfrid Laurier University Press, 2007), 185-204.

The second question concerns the role that Canada plays in the world and the nature of the external opportunities and constraints for action that confront Canada given the hierarchical structure of the international state system and Canada's relative position within it. Research on these issues has produced a three-pronged debate between those who view Canada as a middle power, those who view it as a satellite state dependent on the hegemonic order of the United States, and those who view it as a foremost or principal power.

Discussions about Canada as a middle power have focused on both the relative military and economic capabilities of the Canadian state vis-a-vis other states, as well as on the kinds of activities in which Canada engages on the world stage.<sup>28</sup> The view of Canada as a satellite state has focused on the hegemonic role that the United States has played in world politics since 1945 and situated Canada within this American sphere of influence. In this view, Canada's relatively limited military capabilities rendered the state only a junior partner of the United States in the context of US-led institutions such as the North Atlantic Treaty Organization (NATO) and the North American Aerospace Defense Command (NORAD), while Canada's relatively smaller economic output left the state vulnerable to pressures to integrate its national economy within a regional and global

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<sup>28</sup> J. King Gordon, *Canada's Role as a Middle Power* (Toronto: Canadian Institute of International Affairs, 1966); John W. Holmes, "Most Safely in the Middle," *International Journal*, 39, 2 (1984): 366-388; Cranford Pratt, ed. *Middle Power Internationalism: The North-South Dimension*. (Montreal: McGill-Queen's University Press, 1990); Andrew F. Cooper, Richard A. Higgott and Kim Richard Nossal. *Relocating Middle Powers: Australia and Canada in a Changing World Order*. (Vancouver: University of British Columbia Press, 1993); Tom Keating, *Canada and World Order: The Multilateralist Tradition in Canadian Foreign Policy* (Don Mills: Oxford University Press, 2002); Nik Hynnek and David Bosold, eds. *Canada's Foreign and Security Policy: Soft and Hard Strategies of a Middle Power* (Toronto: Oxford University Press, 2010).

economic order centred around the United States.<sup>29</sup> In the 1970s, a third perspective emerged that viewed Canada with considerably more power and influence on the world stage than either the middle power or satellite state views allowed. Arguing that American power was on the decline following its retreat from Vietnam, some felt that this decline created opportunities for Canada to emerge as a foremost or principal power. This new approach rejected the view of Canada's military and economic capabilities as being of only modest proportions and argued instead that Canada's foreign policy has been, and could continue to be, much more independent and focused on advancing a distinct Canadian national interest.<sup>30</sup>

In the early post-War era, scholarship on Canadian foreign policy generally worked within either the middle power or the satellite dependency framework. The view of Canada as a foremost or principal power emerged only in the 1970s and has found comparably fewer adherents. Nonetheless, each framework remains part of current debates about Canadian foreign policy.<sup>31</sup> As such, the study of Canada's participation at the World Conference against Racism can serve as an interesting case study through

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<sup>29</sup> Stephen Clarkson, ed, *An Independent Foreign Policy for Canada?* (Toronto: McClelland and Stewart, 1968); John Warnock, *Partner to Behemoth: The Military Policy of a Satellite Canada* (Toronto: New Press, 1970); Marci McDonald, *Yankee Doodle Dandy: Brian Mulroney and the American Agenda* (Toronto: Stoddart, 1995); Christian Leuprecht and Todd Hataley, "Just How Liberal and Democratic is Canadian Foreign Policy?" In *The World in Canada: Diaspora, Demography and Domestic Politics*, eds. David Carment and David Bercuson. (Montreal & Kingston: McGill-Queen's University Press, 2008), 123-148; Brian Bow and Patrick Lennox, eds., *An Independent Foreign Policy for Canada? Challenges and Choices for the Future* (Toronto: University of Toronto Press, 2008).

<sup>30</sup> James Eayrs, "From Middle Power to Foremost Power: Defining a New Place for Canada in the Hierarchy of World Power," *International Perspectives* May/June (1975): 3-8; Norman Hillmer and Garth Stevenson, eds., *A Foremost Nation: Canadian Foreign Policy in a Changing World* (Toronto: McClelland and Stewart, 1977); Peyton V. Lyon and Brian Tomlin, *Canada as an International Actor* (Toronto: Macmillan, 1979); Dewitt and Kirton, *Canada as a Principal Power*; John Kirton, *Canadian Foreign Policy in a Changing World* (Toronto: Nelson Education, 2007).

<sup>31</sup> Andrew F. Cooper, *Canadian Foreign Policy: Old Habits and New Directions* (Scarborough: Prentice-Hall, 1997); Kirton, *Canadian Foreign Policy*; Kim Richard Nossal, Stéphane Roussel and Stéphane Paquin, *International Policy and Politics in Canada* (Toronto: Pearson Canada, 2011).

which to examine the utility of each perspective by focusing on Canada's diplomatic contributions within the United Nations system and evaluating Canada's ability to influence the negotiating process that produced the Durban Declaration and Programme of Action.

Through an exploration of these two research questions, the dissertation advances two arguments. First, while Canada's domestic consultation process with civil society actors provided an important opportunity for two-way dialogue between government and civil society actors, it provided civil society actors with only a marginal amount of influence to shape Canada's positions at the UN conference. The statist view of Canadian foreign policy thus provides a compelling explanation of the domestic determinants of the positions that Canada took to the World Conference against Racism. Canada's hesitation to accede to the demands of civil society was particularly evident on issues concerning indigenous peoples as Canadian Aboriginal organizations expressed strong objections to both the domestic consultation process and Canada's tepid approach during the international negotiations to the issue of recognizing indigenous peoples as "peoples" without adding qualifying language that limited the applicability of the term under international law. Canada also firmly rejected the demands of many NGOs to consider offering a formal apology and reparations for various past government actions and policies, such as the allowance of slavery in pre-Confederation Upper Canada, the administration of the Head Tax for Chinese Canadians, the system of Aboriginal residential schools, and the mass eviction of the residents of Africville, Nova Scotia in the 1960s. On all such matters, Canada was not willing to support the creation of any new



international framework that might result in a reduction of state sovereignty or introduce any new financial or legal obligations for the state.

Second, the results of Canada's diplomatic effort to influence the outcome of the Durban Declaration and Programme of Action provide a more ambiguous answer to the question of whether the middle power, satellite dependency or foremost/principal power framework best explains Canada's participation at the World Conference against Racism. On the one hand, Canada's positions toward many of the major issues on the agenda, including the Middle East, the question of apologies and reparations, and the status of indigenous peoples as "peoples" closely resembled the positions adopted by the United States and most other Western states. This suggests that Western states approached certain key issues as a fairly united bloc and that Canada had little room to manoeuvre on these critical areas. On the other hand, the World Conference did provide Canada with some opportunities to make its own mark on the proceedings. Canada played a leading role in organizing the Youth Summit that preceded the World Conference against Racism. Moreover, the withdrawal of the United States from the conference at the half-way point created an opportunity for states like Canada to fill the void left behind by the absence of the world's most powerful state, particularly at a time when the atmosphere at the conference was rapidly deteriorating. While Canada did not exert the degree of influence over the outcome of the Durban Declaration and Programme of Action that might be expected from a foremost or principal power, it did exert some meaningful influence over key aspects of the document, particularly regarding the removal of the most contentious language addressing the Middle East. At least in this regard, therefore,

Canada was more than a mere subordinate of the United States and was able to play the role of the middle power constructive helper in the world.

### **1.3 - Methodology**

This dissertation uses a qualitative analysis of a mixture of primary and secondary source material, with a particular emphasis on the former. Primary sources used include interviews with key Canadian individuals involved in the World Conference process, information obtained via access to information requests from the government of Canada, online archival material from both the Canadian government and the United Nations, and press releases issued by the government of Canada, the United Nations and relevant Aboriginal organizations and Canadian NGOs.

Between August 2011 and December 2012, 22 interviews were conducted with various individuals involved in Canada's preparations for, and participation in, the World Conference against Racism (Appendix A). Eight of these interviews were conducted with Canadian government officials and 14 were conducted with non-state actors, including representatives from Aboriginal organizations and NGOs. The government officials interviewed included Hedy Fry, the Secretary of State (Multiculturalism)(Status of Women) and head of the Canadian delegation in Durban; and Paul Heinbecker, Canada's Permanent Representative to the United Nations and an alternate head of the Canadian delegation. It also included four officials from the Department of Foreign Affairs and International Trade (DFAIT) who served in senior roles during the World Conference process and one official from the Canadian International Development Agency (CIDA). In addition, one government official requested to remain anonymous. The 14 non-state

actors interviewed included a range of individuals representing diverse organizations in Canada that were sponsored by the government to attend the World Conference in Durban and some of the international preparatory meetings. In some cases, individuals interviewed also provided access to personal notes and other documents relevant to their experiences. In addition to the 22 interviews conducted, efforts were made to contact numerous other relevant individuals for an interview—both in government and non-government—but these efforts proved unsuccessful for various reasons.

The dissertation also relies upon information obtained via access to information requests filed between 2010 and 2012 with relevant government departments, including the Department of Foreign Affairs and International Trade and the Department of Canadian Heritage. The most fruitful information obtained in this manner included dozens of email exchanges between relevant government officials that occurred during the various international preparatory meetings and at the Durban Conference itself (i.e. emails from the diplomats on the ground sent to others in Ottawa). Although some of the information was redacted by the government, a considerable amount remained accessible via this method.

Information was also obtained from the online archives of both the government of Canada and the United Nations. Canadian documents included those made public via the website of the Canadian Secretariat for the World Conference against Racism, which provided the general public with government press releases and other information about the World Conference process and Canada's role therein. United Nations documents included those available from the organization's Official Document System (ODS), the

official website of the World Conference against Racism, and press releases issued by the United Nations Office of the High Commissioner for Human Rights.

The last source of primary material included information and press releases made publicly available by the numerous Aboriginal organizations in Canada and NGOs in Canada that participated in some way in the World Conference process.

Additional secondary source material was obtained from newspapers and other media sources in Canada that reported on the World Conference against Racism.

#### **1.4 - Organization of the dissertation**

This dissertation is divided into eight chapters. Following this introductory chapter, the second chapter provides the literature review and discusses in more detail the literature on both the domestic determinants and process of Canadian foreign policy, and the external opportunities and constraints that shape Canada's role in the world. Chapter three introduces the political and historical context of the World Conference against Racism by providing a general overview of the nature of UN conferences and a brief history of the two previous UN conferences on racism that occurred, respectively, in 1978 and 1983.

Chapters four through seven provide the empirical data of the case study through a chronological narrative of key events and developments. Chapter four discusses the early stages of the international preparations and examines Canada's role at the first Preparatory Committee meeting in May 2000 and the Regional Conference of the Americas in December 2000. Chapter five examines Canada's domestic preparations for the World Conference and focuses on the domestic consultation process that began in

September 2000 and culminated in the national consultation in Ottawa in February 2001.

Chapter six returns to the international level to examine Canada's role at three international meetings in Geneva held during the winter and spring of 2001 as well as at the second and third Preparatory Committee meetings (May and August 2001, respectively) during which time the World Conference agenda became increasingly contentious. Chapter seven examines Canada's role at the World Conference itself as well as at the Youth Summit and the NGO Forum.

Chapter eight offers concluding remarks and synthesizes the main empirical findings of the study with the theories discussed in the literature review and the two central research questions informed by the literature review.

## **CHAPTER 2: LITERATURE REVIEW**

This dissertation addresses two central theoretical questions. First, to what extent was the Canadian state autonomous from civil society and non-state actors during the creation and implementation of its policy toward the World Conference against Racism? Second, what role did Canada play internationally during the negotiations that led to the Durban Declaration and Programme of Action and how can this role be assessed against competing theories of Canada's role on the world stage? The first question speaks primarily to domestic political processes in Canada and encompasses three interrelated scholarly debates in the literature on Canadian foreign policy: debates between the adherents of the statist model and adherents of the dominant class approach, debates about the extent to which Canadian foreign policy is or can be democratized, and debates about the ability of domestic interest groups and other non-state actors to influence government policy. The second question speaks primarily to international political processes and explores the role that Canada plays on the world stage and the external opportunities and constraints for action that confront Canada given the hierarchical structure of the international state system and Canada's relative position within it. The major scholarly debates concern three competing views of Canada either as a middle power, a satellite/dependent state, or a principal power. This chapter discusses the relevant literature on both of these two questions and situates the study of Canada and the World Conference against Racism within these overlapping theoretical debates.

### **2.1 - State autonomy and the domestic determinants of Canadian foreign policy**

In the two decades following the Second World War, Canadian foreign policy was

widely recognized to be an elite-driven process that was shaped by the Prime Minister's Office and a small set of actors in the Department of External Affairs who operated largely free from the preferences and constraints of Parliament, public opinion and non-state actors. The central goals of Canadian foreign policy during this time were to help promote multilateral governance within the United Nations system and preserve the unity of Western states within the North Atlantic Treaty Organization (NATO). In 1970, however, the Trudeau government publicly rejected much of this approach and released *Foreign Policy for Canadians*, a policy review paper that sought to redefine Canada's foreign policy-making processes and goals. Trudeau sought to distance his government from the multilateral and internationalist policies of his predecessors and create a foreign policy more directly focused on domestic considerations and the advancement of the Canadian national interest. The white paper proclaimed that foreign policy was an extension of national policy abroad and, as Kim Richard Nossal notes, "was insistent that the government's foreign policy decisions would find their wellsprings in the aspirations, needs, and desires of civil society."<sup>32</sup> Although scholars have since expressed skepticism about the extent to which Trudeau's foreign policy produced a genuine departure from the past, the Trudeau years coincided with a growing scholarly interest in examining the domestic factors that help shape Canadian foreign policy.<sup>33</sup>

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<sup>32</sup> Nossal, "Analyzing the Domestic Sources," 10.

<sup>33</sup> Denis Stairs, "Publics and Policy-Makers: The Domestic Environment of Canada's Foreign Policy Community," *International Journal* 26, 1 (1970/71): 221-248; Denis Stairs, "Public Opinion and External Affairs: Reflections on the Domestication of Canadian Foreign Policy," *International Journal* 33, 1 (1977/78): 128-149; Michael Tucker, *Canadian Foreign Policy: Contemporary Issues and Themes*. (Toronto: McGraw-Hill Ryerson Limited, 1980), 27-28; Nossal, "Analyzing the Domestic Sources,"; Pratt, "Dominant Class Theory,"; Riddell-Dixon, *The Domestic Mosaic*.

### 2.1.1 - Theories of the state

One aspect of this research involved drawing upon competing theories of the state—liberal pluralist, Marxian and statist—and applying them specifically to the analysis of Canadian foreign policy. According to liberal-pluralist theory, the state is not viewed as an autonomous agent in its own right, but rather as a neutral agent that reflects the aggregate preferences of the multitude of actors within society. Liberal-pluralists assume that political power is dispersed across a wide range of actors throughout society, all of whom possess the capacity to articulate their preferences to the general public and to the state. In many cases, societal preferences are organized and expressed in the form of interest groups, and a central feature of the democratic political process is thus the formation of a variety of interest groups representing diverse, and often competing, preferences on key policy issues. In the context of this domestic marketplace of ideas and interests, the role of the state is to receive the various preferences articulated by interest groups and public opinion and create policies that the state determines to best reflect the general will of the public.<sup>34</sup> Of course, on any given policy outcome, some factions of society will be more satisfied than others, but given a large range of policy issues over an extended period of time, it is expected that no one single group will prevail a disproportionate amount of time.

Liberal-pluralist theory was the dominant view of the state among academics in the United States during the 1950s and 1960s, but it later came to be challenged for its rose-coloured view of political equality in the democratic process. Some of these challengers were more radical than others. Neo-pluralist theory agrees with the

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<sup>34</sup> David Truman, *The Governmental Process: Political Interests and Public Opinion* (New York: Knopf, 1951); Robert Dahl, *Who Governs?* (New Haven: Yale University Press, 1961).



assumption that interest group competition is a key feature of the democratic political process, but suggests that some societal actors are more powerful, organized and well-funded than others, and correspondingly hold more influence with the government.<sup>35</sup> Marxian theories of the state depart from liberal-pluralism much more significantly. For Marxians, society can be understood only by reference to the underlying material economic conditions and is divided between those who control the means of production (the bourgeoisie) and those who sell their labour to them (the proletariat). This unequal economic relationship between classes allows the bourgeoisie to exercise a dominant political influence over the state, which is in turn viewed as subservient to the interests of the capitalist class. The state, in Karl Marx's famous phrase, is merely "a committee for managing the affairs of the whole bourgeoisie."

Within the Marxian tradition, there are two schools of thought about how the state performs this function. According to the instrumentalist view, the state is not viewed as being autonomous from the bourgeoisie. Rather, both the state and the bourgeoisie are composed of individuals who come from the same elite background and social circles. By effectively penetrating the state and the policy-making process, the bourgeoisie solidify its privileged position and "use the state as its instrument for the domination of society."<sup>36</sup> By contrast, according to the structuralist view, the state is relatively autonomous from the bourgeoisie and serves the function of maintaining the broader political and social order within the capitalist economy.<sup>37</sup> For structuralists, the bourgeoisie cannot be

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<sup>35</sup> John Manley, "Neo-pluralism: A Class Analysis of Pluralism I and Pluralism II," *American Political Science Review* 77, 2 (1983): 368-383.

<sup>36</sup> Ralph Miliband, *The State in Capitalist Society* (New York: Basic Books, 1969), 23.

<sup>37</sup> Nicos Poulantzas, *Classes in Contemporary Capitalism* (London: New Left Books, 1975).

regarded as a unified bloc and is therefore not necessarily able to distinguish between its short-term interests and long-term interests. The relative autonomy of the state allows it to establish policies that are likely to contradict the short-term interests of the capitalist class, but are necessary to resolve the internal contradictions of capitalism and maintain the economic order in the long-term. For example, modern capitalist states have adopted varying degrees of redistributionist welfare policies designed to partially mitigate economic inequality and subdue large-scale demand for political protest and revolution.

One commonality between liberal-pluralist theories and Marxian theories is their assumption that the state can be explained solely by examining the preferences of society. Statist theory departs from this assumption and argues that the state possesses both an autonomous interest of its own and a considerable degree of autonomy from societal actors to pursue this interest.<sup>38</sup> The state's primary interest is the preservation of political order and the further entrenchment of state power. In much of the International Relations (IR) literature, states are viewed to value power, survival and state-sovereignty above all else in an anarchic international system in which these goals cannot be taken for granted.<sup>39</sup> Statist theory further assumes that states wish to protect their power against domestic challenges to the state, including those ranging from revolutionary challenges to the state to less confrontational normative challenges to the moral legitimacy of the state's role as the arbiter and enforcer of law and order.

The ability of the state to successfully define and pursue its own interest depends on the specific context in which it operates. In some cases, the state is able to advance its

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<sup>38</sup> Stephen Krasner, *Defending the National Interest: Raw Materials Investments and U.S. Foreign Policy* (Princeton: Princeton University Press, 1978); Eric Nordlinger, *On the Autonomy of the Democratic State* (Cambridge: Harvard University Press, 1981).

<sup>39</sup> Kenneth N. Waltz, *Theory of International Politics* (New York: McGraw-Hill, 1979).

own interest because societal preferences are largely absent or not well organized and articulated in the public sphere. In other cases, societal preferences are divided across a range of policy outcomes and no one preference emerges as the dominant one, allowing the state considerable room to manoeuvre between the competing demands placed upon it. Yet even in cases where the state faces strong pressure from society to move policy in a specific direction, the state retains considerable agency to resist these pressures. Several tactics are available to this end; the state can rely upon its vast resources and attempt to alter societal preferences, create or magnify political divisions among key stakeholders in society, or co-opt key societal stakeholders.<sup>40</sup> To be sure, statist theory does not assume that the state will succeed in every such instance. Indeed, adherents of statism concede that the state should not be viewed as enjoying an absolute degree of autonomy from society. Rather, the point is to emphasize that—in contrast to liberal-pluralist and Marxian theories—the state should be regarded as an active agent in its own right that cannot be properly understood only by reductionist appeals to the preferences of society. As Nordlinger suggests “the preferences of the state are at least as important as those of civil society in accounting for what the democratic state does and does not do.”<sup>41</sup>

It is important to note that the empirically measurable distinctions between these competing theories of the state are not always as clear as their divergent assumptions might suggest. Neo-pluralism and Marxian accounts overlap to the extent that both assume the existence of hierarchical divisions within society and assign important influence to privileged societal groups at the top of this hierarchy with regard to their ability to shape state policy. Similarly, both structural Marxians and statist view the state

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<sup>40</sup> Nordlinger, *On the Autonomy*, 7.

<sup>41</sup> Ibid, 1.

as possessing a considerable degree of relative autonomy from society and suggest that the key goal of the state is the preservation of the status quo order. Stephen Krasner, a leading proponent of statist theory, has acknowledged that distinguishing between statist theory and structural Marxian theory is a “difficult task.”<sup>42</sup> For Krasner, the ultimate difference is that statist theory explains state behaviour as the result of ideological goals rather than economic goals.

### **2.1.2 - Theories of the state and Canadian foreign policy**

Competing theories of the state and its relationship to society have played an important role in shaping scholarly debates about Canadian foreign policy. Although liberal-pluralist theory has few, if any, adherents in Canada, both statist and Marxian theories have received significant support, and a reasonable case can be made that statism is the dominant approach to the study of Canadian foreign policy. Several interrelated factors contribute to the popularity of statist theory among scholars of Canadian foreign policy. From an institutional perspective, Canada’s parliamentary system of governance tends to centralize political power to a considerable extent and insulate top government officials from outside pressure. Hence, the foreign policy-making process is often seen as being dominated by a small group of elite actors within the Prime Minister’s Office and the Department of Foreign Affairs and International Trade (DFAIT).<sup>43</sup> Accordingly,

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<sup>42</sup> Krasner, *Defending the National Interest*, 6.

<sup>43</sup> Paul Gecelovsky, “Of Legacies and Lightning Bolts: The Prime Minister and Canadian Foreign Policy,” in *Readings in Canadian Foreign Policy*, eds. Duane Bratt and Christopher J. Kukucha. 1st ed. (Don Mills: Oxford University Press, 2007), 196-205; Nossal, Roussel and Paquin. *International Policy*.

parliament is assumed to play only a minor role in shaping foreign policy.<sup>44</sup> Further, from a political behaviour perspective, foreign policy issues are rarely the decisive factor influencing voting decisions during Canadian federal elections, thus allowing elected officials the ability to formulate and implement their agenda without much fear of electoral reprisal. Hence, whereas the domestic policy-making process encourages policy-makers to work more cooperatively with parliament, and to keep a closer eye on the perceived impact on public opinion, such constraints are largely missing from the foreign policy-making process. As a result, statist argue, the Canadian state enjoys a considerable degree of autonomy from society on foreign policy matters.

Several scholars have applied statist theory to a variety of empirical case studies examining a diverse range of Canadian foreign policy issues. For example, David Dewitt and John Kirton offer a statist interpretation of immigration and refugee policy, energy policy, space policy and Middle East policy.<sup>45</sup> Other case studies employing statist theory have examined foreign aid to the developing world,<sup>46</sup> deep seabed mining and Canada's policy on the United Nations Third Conference on the Law of the Sea,<sup>47</sup> Canada's relations with Latin America,<sup>48</sup> and Canada's approach to the 1995 United Nations Conference on Women.<sup>49</sup>

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<sup>44</sup> Dewitt and Kirton, *Canada as a Principal Power*, 177; John English, "The Member of Parliament and Foreign Policy," in *Readings in Canadian Foreign Policy*, eds. Duane Bratt and Christopher J. Kukuha. 1st ed. (Don Mills: Oxford University Press, 2007), 206-213.

<sup>45</sup> Dewitt and Kirton, *Canada as a Principal Power*.

<sup>46</sup> Nossal, "Mixed Motives Revisited."

<sup>47</sup> Riddell-Dixon, "State Autonomy."

<sup>48</sup> McKenna, "Canada's Policy Towards Latin America."

<sup>49</sup> Riddell-Dixon, *Canada and the Beijing Conference*.

On the other hand, several scholars have used Marxian alternatives to statist theory to provide contending interpretations of various aspects of Canadian foreign policy, including foreign economic policy toward the developing world<sup>50</sup> and especially Canada's foreign aid policies and the politics of the Canadian International Development Agency (CIDA).<sup>51</sup> In other instances, scholars have expanded on the core assumptions of Marxism to provide analysis from a critical theory or Gramscian perspective. One example of the latter is Mark Neufeld, who critiques the image of Canada as a middle power as a hegemonic effort by the state intended to create broad-based public support for policies ultimately designed to advance the interests of the Canadian dominant class.<sup>52</sup> While such analysis departs in important ways from the more traditional Marxist understanding of the state, it provides an example of how the Marxian framework remains relevant within debates about Canadian foreign policy. Even where Marxism has been modified, the core assumptions remain part of the discussion.

As was the case with debates about competing theories of the state generally, scholars who applied these theories to the specific domain of Canadian foreign policy recognized the need for theoretical flexibility in order to avoid presenting an overly simplistic view of state-society relations in Canada. Hence, Nossal advances a "modified" statist theory that emphasizes the state's autonomous interest as a central determinant of foreign policy, but also recognizes that societal actors maintain some ability to influence

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<sup>50</sup> Cranford Pratt, "Canadian Policy Towards the Third World: Basis for an Explanation," *Studies in Policy Economy* 13 (1984): 27-55.

<sup>51</sup> Linda Freeman, "CIDA, Wheat, and Rural Development in Tanzania," *Canadian Journal of African Studies* 16, 3 (1982): 479-504; Pratt, "Dominant Class Theory,"; Pratt, "Competing Perspectives."

<sup>52</sup> Mark Neufeld, "Hegemony and Foreign Policy Analysis: The Case of Canada as a Middle Power," *Studies in Political Economy*. 48 (1995): 7-29.

state behaviour.<sup>53</sup> Similarly, Pratt's emphasis on the centrality of the dominant class also recognizes that state interest, such as the geo-political interest to contain the spread of communism in the developing world, needed to be taken into consideration when explaining Canadian foreign aid policies during the Cold War.<sup>54</sup> Nonetheless, the differing emphasis on the extent to which the state was autonomous from society allowed for a productive debate about the domestic determinants of Canadian foreign policy that remains relevant today.

### **2.1.3 - Interest groups and foreign policy**

In the liberal-pluralist framework, interest groups are seen as key societal actors that have the potential to impact both government policies and the broader policy environment in which democratic government operates. Interest groups can impact policy and the policy-making process in several ways. They can generate information for both the general public and government, frame the discussion of key issues in the minds of citizens and government officials, and provide oversight and commentary on the creation and implementation of policy.<sup>55</sup> The ability of interest groups to perform these tasks depends on several factors, such as the goals of the interest group, their financial resources and the strength of their relationship with the media and government officials. The ability of interest groups to shape policy and the policy-making environment also depends on external factors that are largely beyond their control, such as public opinion

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<sup>53</sup> Nossal, "Analyzing the Domestic Sources."

<sup>54</sup> Pratt, "Competing Perspectives."

<sup>55</sup> John Dietrich, "Interest Groups and Foreign Policy: Clinton and the China MFN Debates," *Presidential Studies Quarterly* 29, 2 (1999): 280-296.

on policy issues of concern, and the extent to which the institutional structure of government facilitates or restricts outside influence.<sup>56</sup>

During the second half of the twentieth century, interest groups became increasingly more active in attempting to shape foreign policy-making processes in the United States, Canada and in other advanced democracies. To some extent, increased interest group activity on foreign policy issues reflected the growth in interest group activity in general, but it also reflected the changing perception of what constituted foreign policy as issues such as global environmentalism, global economic inequality and the protection of human rights in developing world countries became more salient to the general public. In addition, the rapid pace of globalization has tended to blur the traditional distinction between foreign policy and domestic policy, resulting in greater interest group activity on policy matters that straddle the line between foreign and domestic policy.<sup>57</sup>

Measuring the influence of interest groups on policy outcomes and the policy-making environment remains a difficult task for scholars. Andreas Dür identifies three methodological approaches for addressing this challenge: process-tracing, attributed influence and preference attainment. Process-tracing involves efforts to examine the intervening steps that link the causal variable(s) with the dependent variable. As Dür notes, “with respect to measuring interest group influence, scholars scrutinize groups’ preferences, their influence attempts, their access to decision-makers, decision-makers’ responses to the influence attempts, the degree to which groups’ preferences are reflected

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<sup>56</sup> Andreas Dür and Dirk de Bièvre. “The Question of Interest Group Influence,” *Journal of Public Policy* 27, 1 (2007): 1-12.

<sup>57</sup> Patrick Haney and Walt Vanderbush. “The Role of Ethnic Interest Groups in U.S. Foreign Policy: The Case of the Cuban American National Foundation,” *International Studies Quarterly* 43, 2 (1999): 341-361.



in outcomes and groups' statements of (dis-)satisfaction with the outcome.”<sup>58</sup> Attributed influence attempts to measure influence by examining the extent to which key actors involved in policy debates and policy-making—including officials from government and the interest group themselves—identify a causal link between the activities of a particular interest group and policy outcomes. Preference attainment examines the extent to which interest groups feel that their demands were heard by government and reflected in policy outcomes. To be sure, each of these methods contain drawbacks as they rely on the subjective viewpoints of individuals and cannot necessarily control for all relevant variables that are involved in the policy-making process. Accordingly, Dür recommends a strategy of “methodological triangulation” that attempts to examine interest group activity using two or more of these frameworks.

#### **2.1.4 - Interest groups and Canadian foreign policy**

Although liberal-pluralist theories of the state have not found significant scholarly support as a framework for explaining Canadian foreign policy, scholars examining the role of interest groups in shaping Canadian foreign policy have often implicitly drawn on some of the key assumptions advanced by the liberal-pluralist framework to suggest that interest groups can indeed exert significant influence on policy. For the most part, scholarly analysis examining the role of interest groups in shaping Canadian foreign policy has focused on specific policy issues rather than focusing on Canadian foreign policy-making generally. For example, both scholars and NGOs themselves suggest that Canada's strong support for the International Campaign to Ban Landmines can be

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<sup>58</sup> Andreas Dür, “Measuring Interest Group Influence in the EU,” *European Union Politics* 9, 4 (2007): 562.

attributed, in part, to the lobbying efforts of concerned Canadian (and international) NGOs and the close relationship that these NGOs were able to form with senior government officials, such as Foreign Affairs Minister Lloyd Axworthy.<sup>59</sup> There is similarly a large body of work examining the role of interest groups in shaping Canada's policy toward the Middle East generally, and Israel in particular.<sup>60</sup> While some have concluded that pro-Israel interest groups in Canada wield substantial, though not necessarily decisive, influence over government officials,<sup>61</sup> others concluded that pro-Israel interest groups possess only minimal and sporadic influence.<sup>62</sup> Additionally, there is some research examining the foreign policy interests and lobbying efforts of Muslim-Canadian interest groups, although these studies tend to conclude that such groups have limited impact in shaping Canadian policy.<sup>63</sup>

As mentioned, one challenge for scholars studying the ability of interest groups to

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<sup>59</sup> Maxwell Cameron, "Democratization of Foreign Policy: The Ottawa Process as a Model," *Canadian Foreign Policy Journal* 5, 3 (1998): 147-165; Isabelle Daoust, (2007, October 20). Canada's Role in the Ottawa Process. Ottawa: Canadian Council on International Law. Accessed February 12, 2013, <http://www.redcross.ca/article.asp?id=24621&tid=001>.

<sup>60</sup> Taras and Goldberg, eds. *The Domestic Battleground*.

<sup>61</sup> Paul Noble, "Canada and the Palestinian Question," *International Perspectives* 11, 5 (1983): 3-6; Alan Bones, "Zionist Interest Groups and Canadian Foreign Policy," in *Canada and the Arab World*, ed. Tareq Y. Ismael. (Edmonton: The University of Alberta Press, 1985), 151-172; Peyton V. Lyon, "Canada's Middle East Tilt," *International Perspectives* 10, 5 (1982): 3-5; Lyon, "The Canada Israel Committee."

<sup>62</sup> David H. Goldberg, "Keeping Score: From the Yom Kippur War to the Palestinian Uprising," in *The Domestic Battleground: Canada and the Arab-Israeli Conflict*, eds. David Taras and David H. Goldberg. (Kingston: McGill-Queen's University Press, 1989), 102-122; Goldberg, *Foreign Policy and Ethnic Interest Groups*; Taras and Weinfeld, "Continuity and Criticism,"; Ronnie Miller, *From Lebanon to the Intifada: The Jewish Lobby and Canadian Middle East Policy* (Lanham: University Press of America, 1991).

<sup>63</sup> Radcliffe Ross, "Canadian Muslims and Foreign Policy,"; Liat Radcliffe Ross, "The Participation of Canadian Muslim Pressure Groups in the Canadian Foreign Policymaking Process," Unpublished paper presented at the Canadian Political Science Association Annual Conference, Ottawa, 2009; Sami Aoun, "Muslim Communities: The Pitfalls of Decision-Making in Canadian Foreign Policy," in *The World in Canada: Diaspora, Demography and Domestic Politics*, eds. David Carment and David Bercuson (Montreal & Kingston: McGill-Queen's University Press, 2008), 109-122.

influence Canadian foreign policy, or any government policy in general, is the difficulty in defining and measuring what exactly constitutes influence. Indeed, this challenge permeates efforts to examine the influence of not just interest groups, but any set of societal actors, such as business groups, trade unions, activist groups, or public opinion generally. Denis Stairs' analysis of the relationship between public opinion and foreign policy provides a useful guide for addressing this issue. Stairs notes that public opinion can influence foreign policy in four ways. It can work to set the agenda of policy-makers by bringing to their attention issues that might otherwise have gone overlooked (agenda-setting); it can establish basic parameters of what policy-makers consider to be feasible courses of action (parameter-setting); it can determine the choices of policy-makers (policy-setting); and it can influence the implementation of policy once chosen (administration setting).<sup>64</sup> Building upon this analysis, Nossal, Roussel and Paquin propose that societal influence can be categorized in two ways: societal actors can influence the policy-making environment—what Stairs calls agenda-setting and parameter-setting—and societal actors can influence the decision-making processes—what Stairs calls policy-setting and administration setting.<sup>65</sup> This framework is helpful because it allows scholars to discuss the multitude of ways in which societal actors can influence government policy, and allows for analysis of influence measured in both the short-term and the long-term. While a given societal actor or interest group may not succeed in the short-term efforts to persuade government to adopt their preferred policy, they may be more successful in the long-run by shifting the nature of policy-debates toward a direction more favourable to their viewpoint.

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<sup>64</sup> Stairs, "Public Opinion and External Affairs."

<sup>65</sup> Nossal, Roussel and Paquin, *International Policy*, 107.

### **2.1.5 – The democratization of Canadian foreign policy**

The examination of government using statist theory and the examination of the ability of interest groups to influence government policy can be viewed as two sides of the same coin. Both are efforts to identify the key actors that shape government policy and to explore the relationship between the state and key non-state actors. The key difference is that statist theory regards the state as its central unit of analysis whereas the study of interest groups gives primacy to these non-state actors. But the findings of one approach will inevitably complement the findings of the other. If statist theory is correct that the state is largely autonomous from society in its decision-making powers then interest groups will be seen as only marginal actors in the policy-making process. On the other hand, if interest groups can be shown to exert meaningful influence over policy then the assumptions of statist theory will be significantly undermined.

The examination of government efforts to democratize Canadian foreign policy can be viewed as yet another way to approach the interrelated questions about state autonomy and the role of non-state actors and interest-groups in the policy-making process. During the early 1990s, there emerged a growing public concern that the Canadian foreign policy-making process was too elitist and secretive, and thus provided few opportunities for ordinary Canadian citizens to engage meaningfully in the process and have input over policy outcomes. In 1993, the Liberal Party of Canada campaign material stated that “Canadians are asking for a commitment from government to listen to their views, and to respect their needs by ensuring that no false distinction is made between domestic and foreign policy.” To this end, the Liberal party pledged to establish a “National Forum on Canada’s International Relations as part of our commitment to the

democratization of foreign policy-making in Canada.”<sup>66</sup> Established in 1994 following the Liberal Party’s electoral victory, the National Forum provided an institutional framework for dialogue and consultation between government officials and a variety of non-state actors including interest groups, NGOs, journalists, academics, business groups and former members of the Canadian foreign service. In addition, the government established a Special Joint Committee Reviewing Canadian Foreign Policy. Composed of Members of Parliament and the Senate, the committee “spent seven months considering 561 briefs, holding over 80 meetings in ten cities in Canada and three abroad, hearing from over 550 witnesses, and in the process generating over 10,000 pages in parliamentary testimony.”<sup>67</sup>

These efforts generated considerable debate among scholars about the extent to which they genuinely resulted in a more “democratic” policy-making process.<sup>68</sup> Most of this analysis was skeptical about the results. First, concerns were raised about the extent to which non-state actors involved in these processes could be seen as representative of the Canadian public as a whole. Second, concerns were raised about the government’s motives and the extent to which government officials were genuinely interested in listening to the views of non-state actors and producing policy that reflected these views. Nonetheless, the trend toward holding more public consultations prior to the creation of public policy can be seen as a step in the direction of greater democratization of foreign

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<sup>66</sup> The Liberal Party of Canada, *Creating Opportunity: The Liberal Plan for Canada* (Ottawa: The Liberal Party of Canada, 1993), 105-109.

<sup>67</sup> Kim Richard Nossal, “The Democratization of Canadian Foreign Policy: The Elusive Ideal,” in *Canada Among Nations, 1995: Democracy and Foreign Policy*, eds. Maxwell Cameron and Maureen Appel Molot (Ottawa: Carleton University Press, 1995), 35.

<sup>68</sup> Nossal, “The Democratization of Canadian Foreign Policy,”; Hay, “Practicing Democratic Foreign Policy,”; McCormick, “Democratizing Canadian Foreign Policy.”

policy even if such efforts fall short of the normative ideal.

#### **2.1.6 - The domestic determinants of Canadian policy toward the World Conference against Racism**

The examination of Canada's approach to the 2001 United Nations World Conference against Racism provides a rich case study to assess theoretical debates about state autonomy, the role of interest groups and NGOs, and the government's efforts to democratize the foreign policy making process. In preparing for the conference, the government established an extensive consultation process with a wide variety of civil society actors representing diverse groups from across Canada. Between September 2000 and July 2001, the government organized six regional consultations as well as a national consultation that included more than 1,000 participants and provided opportunity for policy dialogue between government and civil society as Canada prepared its positions for the conference. The government also organized separate consultation meetings for both Aboriginal organizations and youth groups. Additionally, dozens of Canadian NGOs were funded by the government to travel abroad to Geneva to attend UN preparatory meetings in advance of the conference, and later to attend the World Conference itself. Many other NGOs attended these events at their own expense. Further, some NGO officials were included as members of the official government delegation at both the Geneva preparatory meetings and in Durban. The Department of Canadian Heritage also established a Civil Society Advisory Committee and a separate Aboriginal Advisory Committee to provide policy suggestions to Hedy Fry. The sustained interaction between government and NGO officials that occurred in the lead-up to the world conference as

well as in Durban itself offers a fruitful opportunity to examine the relationship between these actors and to assess the extent to which government policy was shaped by these interactions. Additionally, as it was the Liberal government under Prime Minister Jean Chrétien that managed Canada's approach to the world conference, the case study also offers an opportunity to examine the policy-making process in the context of its professed efforts to democratize Canadian foreign policy.

## **2.2 – Canada on the world stage**

In addition to the various domestic factors that contribute to the creation and implementation of government policy, government must also contend with the many external factors that constitute the global political landscape. Canadian policy, like that of any other country, is shaped by a mixture of both domestic and international forces. To that end, the remainder of the chapter is concerned with discussing the international determinants of Canadian foreign policy.

According to structural realist theory, one of the major theories of International Relations (IR), the international system is defined by its anarchic structure, meaning the absence of effective international institutions that can govern the interaction between states. In this environment, states compete against one another for survival in a world in which the state's national interest cannot be taken for granted.<sup>69</sup> Realists emphasize that the distribution of power is the key variable in international politics and define power primarily in terms of a state's military capabilities. As a result, realists see international

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<sup>69</sup> Waltz, *Theory of International Politics*; Robert O. Keohane, ed. *Neorealism and Its Critics* (New York: Columbia University Press, 1986); David Baldwin, ed. *Neorealism and Neoliberalism* (New York: Columbia University Press, 1993).

institutions and laws as merely epiphenomenal to the distribution of power rather than as causal variables that shape and constrain the behaviour of states. Realists thus agree with the famous pronouncement of Thucydides that international politics is an arena in which the strong do what they can while the weak suffer what they must.

Competing theories of IR hold different assumptions about the role of power in the international system. Institutionalists challenge the assumption that international institutions are epiphenomenal to the distribution of power and emphasize the ability of institutions to promote meaningful cooperation between states. Over time, institutions can establish rules of conduct that regulate interaction between states and prevent powerful states from imposing their will on others.<sup>70</sup> Constructivists challenge the assumption that anarchy is an objective concept that exists exogenously of how states behave and emphasize how anarchy is a social construction created by a particular set of state attitudes and behaviours. In this view, power itself is a social construct and power politics between states occurs only if states believe and behave in a way that promotes such conflict.<sup>71</sup> Liberal theorists challenge the assumption that international politics can be easily separated from domestic politics and emphasize how a given state's foreign policy is determined primarily by domestic factors rather than the international distribution of power.<sup>72</sup> Nonetheless, while IR scholars differ among themselves about the role of power in international politics, none go so far as to deny that power plays an important role.

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<sup>70</sup> Robert O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton: Princeton University Press, 1984).

<sup>71</sup> Alexander Wendt, "Anarchy is What States Make of it: The Social Construction of Power Politics," *International Organization* 46, 2 (1992): 391-425.

<sup>72</sup> Andrew Moravcsik, "Taking Preferences Seriously: A Liberal Theory of International Politics," *International Organization* 51, 4 (1997): 513-554.



Debates about the nature and impact of state power in world politics are thus at the heart of much of the IR literature.

Questions about power have likewise occupied a central place in the literature on Canadian foreign policy. Both policy makers and scholars alike have grappled with the issues of how much power Canada has and the purposes to which that power is used at the international level. Over time, three dominant theoretical frameworks emerged to address the question of Canada's power: Canada as a middle power, a satellite state, and a principal power. Each of these three frameworks relies on a distinct set of assumptions about the international determinants of Canadian foreign policy and Canada's capacity to promote its interests and values on the world stage.

### **2.2.1 - Canada as a middle power**

As Nossal, Roussel and Paquin note, the term middle power holds two meanings when used to describe Canada's place in the world. Canada can be viewed as a middle power based on its position within the hierarchy of states in the international system, but it can also be viewed as a middle power based on the kinds of policies that it performs on the world stage.<sup>73</sup> According to the positional view, Canada is a middle power simply because it is less powerful than the few great powers, but more powerful than most other states in the world. As one Canadian diplomat said in 1944, Canada is a middle power because "with her smaller population and lack of colonial possessions, she is not a major or world power like Britain, the United States or Russia. But with her natural wealth and human capacity she is not a minor power like Mexico or Sweden. She stands in between

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<sup>73</sup> Nossal, Roussel and Paquin, *International Policy*.

as a Britannic Power of medium rank.”<sup>74</sup> By contrast, the second view of Canada as a middle power focuses on what Canadian foreign policy does rather than simply how much power Canada has relative to other states. According to this view, a middle power is a state whose foreign policy goals generally serve to promote global stability, effective international institutions and the rule of law, and the peaceful resolution of conflicts between states. Assessments of Canada as a middle power oftentimes rely on both meanings of the term and suggest that Canada is able to engage in middle power diplomacy because of its positional rank among states. That is, Canada is able to make niche contributions to specific global issues because it both possesses enough material and diplomatic resources to engage with the tasks at hand, but also holds none of the political baggage of the great powers, such as their history of wars of aggression and colonialism in the developing world. Hence, as indicated in footnote 28, many scholars of Canadian foreign policy have concluded that Canada is a middle power.

Labeling Canada as a middle power is not without controversy, however, and the term has produced several detractors alongside its proponents. Some critics suggest that the Canadian government has embraced the term in an attempt to exaggerate Canada’s influence on the world stage. Adam Chapnick, for example, argues that Canada’s middle power status is a “myth” and no more than “rhetoric crafted to justify the attainment of disproportionate influence in international affairs.”<sup>75</sup> Such criticisms were, in fact, rather common during the 1990s as government budget cutbacks to DFAIT, the military, and CIDA limited Canada’s ability to impact events abroad. Other critics go further and

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<sup>74</sup> As quoted in *ibid*, 53.

<sup>75</sup> Adam Chapnick, “The Canadian Middle Power Myth,” *International Journal* 55, 2 (2000), 188.

suggest that the language of Canada as a middle power is designed to do more than merely overstate the importance of Canada on the world stage, but to legitimize state power<sup>76</sup> and whitewash the darker side of Canadian foreign policy.<sup>77</sup>

The image of Canada as a middle power originated in the 1940s and was the dominant view of Canada during the 1950s, a period of time often referred to as the “Golden Age” of Canadian foreign policy.<sup>78</sup> During this time, Canada participated actively in the establishment of the United Nations, the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (World Bank) and the North Atlantic Treaty Organization (NATO). Canada also made a major contribution to the Colombo Plan to promote economic development in South East Asia, the Korean War, and the establishment of the United Nations Emergency Force (UNEF) in Egypt following the 1956 invasion of that country by the United Kingdom, France and Israel. In 1957, Lester B. Pearson was awarded the Nobel Peace Prize for his role in resolving the Suez Canal Crisis, an achievement that has come to be regarded as the apex of Canadian middle power diplomacy.

However, the golden age of Canadian foreign policy lasted only a little more than a decade. By the 1960s, Canada’s influence on the world stage began to wane as European economies recovered from the war while developing world states throughout

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<sup>76</sup> Neufeld, “Hegemony and Foreign Policy Analysis.”

<sup>77</sup> Yves Engler, *The Black Book of Canadian Foreign Policy* (Black Point, Nova Scotia: Fernwood Publishing, 2009).

<sup>78</sup> John W. Holmes, *The Shaping of Peace: Canada and the Search for World Order, 1943-1957, Volume 1* (Toronto: University of Toronto Press, 1979); John W. Holmes, *The Shaping of Peace: Canada and the Search for World Order, 1943-1957, Volume 2* (Toronto: University of Toronto Press, 1982); John English, *The Worldly Years: The Life of Lester Pearson, 1949-1972* (Toronto: Random House of Canada, 1992); Andrew Cohen, *While Canada Slept: How We Lost our Place in the World* (Toronto: McClelland & Stewart Ltd, 2003); Adam Chapnick, “The Golden Age: A Canadian Foreign Policy Paradox,” *International Journal* 64, 1 (2008/09): 205-221.

Africa, Asia and the Middle East attained independence. Domestically, the country debated whether it should engage in a liberal internationalist foreign policy or one more closely tied to strengthening Canada's bilateral relationship with the United Kingdom. In 1960, Secretary of State for External Affairs Howard Green argued that the country should "drop the idea that Canada's role in world affairs was to be an honest broker."<sup>79</sup> In 1967, UN Secretary-General U Thant accepted a request by Egypt to withdraw peacekeepers from the Sinai, a decision made without Security Council consultation and one that stunned Prime Minister Pearson. It was an unceremonious end to Canada's peacekeeping mission in Egypt and appeared to some as an indicator of the limits of Canadian middle power diplomacy and a sign of how much the world had changed since 1945.

Despite these developments, those who regarded Canada as a middle power could continue to find support for this belief in a variety of foreign policy decisions. Canada remained committed to UN peacekeeping and sent a large contingent to Cyprus in 1964, where the Canadian mission would remain for almost three decades. Canada stayed out of America's war in Vietnam. In his post-Prime Minister years, Pearson played a leading role in encouraging Western states to increase their foreign aid budgets. Even the election of Pierre Elliott Trudeau and his explicit promise to alter dramatically the landscape of Canadian foreign policy proved in the end to be more rhetoric than reality. In 1970, the government published the results of its major foreign policy review, *Foreign Policy for Canadians*, a series of books that recommended a more realist-oriented foreign policy concerned with promoting economic growth at home and protecting Canadian sovereignty and national interests abroad. Like others before him, Trudeau believed that

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<sup>79</sup> As quoted in Cohen, *While Canada Slept*, 132.

Canada should be more than a mere helpful fixer. In practice, however, much of Canadian foreign policy under Trudeau remained consistent with the middle power framework. Throughout the 1970s, Canada continued to participate actively in UN peacekeeping missions and in the early 1980s, Trudeau's government created the Canadian Institute for International Peace and Security (CIIPS) and launched a global "peace initiative" effort to promote nuclear disarmament. Indeed, Trudeau even defended his peace initiative by telling Parliament that, "preventing the spread of nuclear weapons is in the interest of superpower, middle power and micro-states alike."<sup>80</sup>

The Progressive Conservative government of Brian Mulroney, despite eschewing the use of term middle power, made several policy decisions that could be viewed in this tradition as well, such as continuing support for UN peacekeeping, adopting an increasingly critical stance toward the apartheid government in South Africa, and offering strong support for the Montreal Protocol and global efforts to protect the environment. And as Nossal, Roussel and Paquin note, Mulroney was also known to invoke the middle power narrative to defend some of his policies, including referencing the legacy of Pearson while defending Canada's participation in the Gulf War.<sup>81</sup> Finally, the government of Jean Chrétien also adopted several policies that could be viewed within the middle power framework. The Axworthy Doctrine, named after Foreign Affairs Minister Lloyd Axworthy, emphasized a foreign policy concerned with promoting human security rather than state security. Key policies in this regard include the promotion of the International Campaign to Ban Landmines and the establishment of the International Commission on Intervention and State Sovereignty, which developed the "Responsibility

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<sup>80</sup> As quoted in Cooper, *Canadian Foreign Policy*, 19.

<sup>81</sup> Nossal, Roussel and Paquin. *International Policy*, 58.

to Protect” doctrine.

In sum, the history of Canadian foreign policy during the second half of the twentieth century provide proponents of the view of Canada as a middle power with many examples to cite in defence of this framework. However, the narrative of Canada as a middle power is only one of several competing frameworks used to describe the determinants and purposes of Canadian foreign policy, and, as will be discussed below, proponents of other frameworks offer starkly different interpretations of Canadian foreign policy.

### **2.2.2 – Canada as a satellite/dependent power**

Whereas the view of Canada as a middle power characterizes Canada as an active participant in world politics, the view of Canada as a satellite or dependent power describes Canada as a much more passive actor. In this view, Canada is perceived as a smaller power on the world stage and adopts a foreign policy concerned primarily with managing relations with its most powerful ally. Prior to the Second World War, Canada’s most powerful ally was the United Kingdom and, until the 1931 Statute of Westminster, Canadian foreign policy was heavily shaped by Britain. Canada was a loyal member of the British Commonwealth and therefore had few foreign policy interests beyond serving the interests of the United Kingdom. Following the end of the Second World War, however, this orientation changed dramatically as the United Kingdom’s status on the world stage fell while the United States rose to become a superpower. The post-War order would be defined by the world’s two superpowers: the United States and the Soviet Union, and in this context, Canada was naturally aligned with the United States. Thus,

Canada adopted a foreign policy designed to supplement the key goals of American foreign policy, which was to halt the spread of communism in Europe and the developing world and promote a global economic order controlled by the capitalist democracies of the West. Hence, Canada is often viewed as little more than a junior partner of the United States. As indicated in footnote 29, this view of Canada as a satellite state orbiting around the hegemonic order of the US has been embraced by many scholars of Canadian foreign policy.

Since 1945, the view of Canada as a satellite state has been the second most commonly used framework for examining Canadian foreign policy, and many of the debates about Canadian foreign policy during the 1950s and 1960s focused on whether this view or the middle power framework best explained Canada's place in the world.<sup>82</sup> Broadly, the satellite state framework suggests that Canada was a Western capitalist democracy that was in no sense neutral or "in the middle" during the Cold War struggle between the United States and the Soviet Union. Rather, Canada was a committed member of the US-led military alliance organized around NATO and NORAD, and Canadian foreign policy rarely departed from the goals pursued by the United States. While Canada's multitude of peacekeeping missions helped to bring some degree of stability to geo-politically unstable hot spots in the world, they did so under the umbrella of US power. For example, the United States was opposed to the UK-French-Israeli attack against Egypt in 1956 and expressed concern that the attack would escalate tensions with the Soviet Union and drive Arab states into the Soviet sphere of influence. UN peacekeeping could thus be seen to fit perfectly with US interests to resolve the crisis

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<sup>82</sup> J. L. Granatstein, ed. *Canadian Foreign Policy Since 1945: Middle Power or Satellite?* (Toronto: The Copp Clark Publishing Company, 1969).

as quickly as possible. Subsequent UN peacekeeping missions in the Congo and Cyprus can also be seen in the context of the Cold War, as each mission sought to prevent the expansion of Soviet influence in the developing world. From this perspective, Canada's participation in UN peacekeeping missions has been viewed as merely a form of Cold War foreign policy by other means.<sup>83</sup> As David Cox notes, "there is perhaps an element of wishful thinking in seeking to be at once a loyal member of the Western Alliance and a neutral middle power with considerable freedom of action."<sup>84</sup>

In addition to their focus on Canadian defence policy, proponents of the satellite framework also highlight Canadian economic policy and point to the rapidly growing economic ties between the United States and Canada as evidence that Canadian policy makers have limited flexibility in an increasingly globalized economy. During the Diefenbaker years, for example, the Prime Minister was ultimately unable to fulfill his pledge to divert 15 percent of Canada's trade with the United States to the United Kingdom. A decade later, the Trudeau government established the Foreign Investment Review Agency (FIRA) in an effort to monitor foreign investment in Canada and ensure that it was consistent with the Canadian national interest, but this policy did little to halt the growth in trade and investment between the two countries. The 1988 Canadian federal election was fought almost entirely over the issue of free trade with the United States, and in the end resulted in the establishment of the Free Trade Agreement (FTA). When the Liberal Party of Canada won government in 1993, it quickly reversed its previous

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<sup>83</sup> Sean Maloney, *Canada and UN Peacekeeping: Cold War by Other Means* (St. Catharines: Vanwell Publishing, 2003).

<sup>84</sup> David Cox, "Peace-Keeping in Canadian Foreign Policy," in *An Independent Foreign Policy for Canada?* ed. Stephen Clarkson (Toronto: McClelland and Stewart, 1968), 191.



opposition to the FTA and even expanded it to include Mexico under the North American Free Trade Agreement (NAFTA). As a result of these and similar developments, proponents of the view of Canada as a satellite state argue that Canada has only limited control over its domestic economic policy and must cater to the business demands of external actors.

Critics of the view of Canada as a satellite state, however, have suggested that the framework puts too much emphasis on the structural constraints of the global political and economic order and, accordingly, understates the degree of agency that the Canadian state possesses in shaping its defence and economic policy. Far from being inevitable, Canada's increasing economic integration with the United States can be seen as the result of a series of policy choices made by elected officials in Ottawa who have greater room to manoeuvre than proponents of the satellite view would suggest. At a normative level, assessments of Canada as a satellite state of the United States might be criticized for their almost uniform belief that such a relationship is politically or ethically undesirable. Hence, the satellite state argument is often advanced from an economic nationalist political persuasion and presented in polemical terms.<sup>85</sup>

In sum, the satellite state framework has been an enduring part of scholarly discussions about Canadian foreign policy for most of the country's history and will likely remain part of the debate so long as Canada continues its membership in US-led organizations like NATO and NORAD and actively seeks to integrate into the North American and global economy.

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<sup>85</sup> McDonald, *Yankee Doodle Dandy*; Clarkson, Stephen. *Uncle Sam and Us: Globalization, Neoconservatism, and the Canadian State* (Toronto: University of Toronto Press, 2002); Mel Hurtig, *The Vanishing Country: Is It Too Late to Save Canada?* (Toronto: McClelland & Stewart Ltd, 2002).

### **2.2.3 – Canada as a foremost/principal power**

The third major scholarly framework for examining Canada's place on the world stage holds that Canada is a foremost or principal power that is roughly on par with the world's great powers, or at least fairly close to them. Emphasizing Canada's vast economic, natural, technological and diplomatic resources, this view suggests that Canada occupies a top position among states within the hierarchy of the international system and that Canada accordingly holds significant influence on the world stage. As indicated in footnote 30, this framework has several adherents among scholars of Canadian foreign policy.

Relative to the middle power and satellite frameworks, the foremost or principal power framework was a late-comer to scholarly debates on Canadian foreign policy. The view emerged only in the mid-1970s after the election of Trudeau and during a time of world politics in which America's global position seemed to be in decline following the Vietnam War, the 1973 oil-embargo and the Watergate scandal. Hence, just as the Canadian Prime Minister was rhetorically embracing the idea of Canada more boldly pursuing its national interest, the relative decline of American power appeared to create an international context in which other states could fill the emerging power vacuum. In a 1975 article, James Eayrs sought to define "a new place for Canada in the hierarchy of world power" above that of middle power as Canada "has almost sinfully bestowed upon it the sources of power, both traditional and new." Canada was thus a "foremost power" in the sense of it being "most notable or prominent."<sup>86</sup> A few years later, Peyton V. Lyon and Brian Tomlin offered a quantitative ranking of state military and economic power

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<sup>86</sup> Eayrs, "From Middle Power to Foremost Power."

and concluded that Canada ranked as the world's sixth most powerful country.<sup>87</sup> David Dewitt and John Kirton subsequently argued that Canada was a "principal power" and that "Canada's objective capability—grounded in the relative size, breadth, and diversity of its natural resources, advanced technology, and skilled population and in other standard calculations of national power—places it predominantly within the top tier of the system."<sup>88</sup>

However, the view of Canada as a foremost or principal power has attracted few adherents among scholars of Canadian foreign policy. The end of the Cold War and the emergence of America as an unchallenged superpower during the 1990s put to rest for the time any notion that the United States was declining and creating a power vacuum for other states to fill. Moreover, the principal power framework was viewed by most scholars of Canadian foreign policy to simply overstate the amount of power and influence that Canada holds.<sup>89</sup> This seemed particularly evident during the 1990s when Canada's focus on deficit reduction resulted in significant cuts in military and foreign aid spending. Thus, the foremost or principal power framework has had a rather short shelf-life among scholars of Canadian foreign policy.

#### **2.2.4 – Canada on the world stage at the World Conference against Racism**

The three frameworks addressing Canada's power position on the world stage provide vastly different assumptions and expectations about the determinants and

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<sup>87</sup> Lyon and Tomlin, *Canada as an International Actor*.

<sup>88</sup> Dewitt and Kirton, *Canada as a Principal Power*.

<sup>89</sup> Cooper, *Canadian Foreign Policy*.

outcomes of Canadian foreign policy, and have allowed for productive debate among scholars of Canadian foreign policy.<sup>90</sup> In that vein, the three frameworks can also provide a useful foundation for the study of Canada and the 2001 UN World Conference against Racism. Canada was an active participant at both the preparatory meetings in Geneva and elsewhere as well as at Durban itself. Canada brought to this process its own set of ideas, values and interests about how the UN could proceed with its efforts to address racism at the international and domestic level. At the same time, UN politics is frequently prone to produce bloc politics in which like-minded states work together to advance a common agenda while working against opposing blocs that seek to advance a competing agenda. Hence, Canada's relationships with the United States and European states cannot be overlooked as important factors that helped to shape Canada's approach to the World Conference. As such, the study of Canada and the World Conference against Racism can be seen as a useful case study to contribute to ongoing scholarly debates about the relative usefulness of the middle power, satellite/dependency, and principal power frameworks within the larger study of Canadian foreign policy.

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<sup>90</sup> Granatstein, ed. *Canadian Foreign Policy since 1945*; Michael Hawes, *Principal Power, Middle Power, or Satellite* (Toronto: Canadian Institute of Strategic Studies, 1984); Duane Bratt and Christopher J. Kukucha, eds. *Readings in Canadian Foreign Policy: Classic Debates and New Ideas* 2nd ed. (Don Mills: Oxford University Press, 2011).

## **CHAPTER 3: UN CONFERENCES AND PREVIOUS CONFERENCES ON RACISM**

In order to best examine Canada's contribution to the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, it is helpful to situate this experience within a broader historical and political context. The goal of this brief chapter is to discuss the international context in which the World Conference against Racism occurred and the Canadian response to these developments. The chapter begins by introducing the concept of UN conferences, in general, and discusses the rapid rise and evolving nature of these global UN-organized events. The chapter then focuses specifically on the two previous UN racism conferences, which occurred in 1978 and 1983, respectively, and provides some analysis of Canada's participation at these two conferences.

### **3.1 - United Nations Conferences**

United Nations Conferences are a unique form of international diplomacy that is designed to focus attention on specific global issues and problems and to contribute toward the creation and implementation of international and national policy solutions to these issues. According to the United Nations Joint Inspection Unit (JIU), a global conference can be defined as:

a conference that is not part of the regular recurrent conference programme of a biennium, but that is convened in response to a specific resolution by the General Assembly or the Economic and Social Council, for whose substantive preparation and specific additional budgetary provisions are made and which all States are normally invited to attend. Such a conference usually extends over a period of a minimum of two to a maximum of four to six weeks and requires an intensive level of planning and servicing.<sup>91</sup>

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<sup>91</sup> As quoted in Michael Schechter, *United Nations Global Conferences* (London: Routledge, 2005), 5.

Generally, each UN conference focuses on a specific theme, such as the environment, trade and economic development, human rights, women's rights, racism, food, or population growth (to name only a few). Each conference occurs in a designated host-country, thus bringing together in one location delegates from UN member states from around the world. Since the 1970s, non-state actors, such as NGOs, indigenous organizations, journalists, academics, and publicly renowned individuals, have been given a larger role to play as well. As a result, UN conferences are a forum for both traditional multilateral negotiations between states as well as a forum for various non-state actors to participate in the process of global governance.

UN conferences vary according to their purposes, procedures and outcomes. Volker Rittberger has differentiated between “action-oriented” conferences and “rule-making” conferences. Action-oriented conferences “enunciate and/or affirm basic principles governing the interaction of states (and, to some extent, of non-state actors, too) in a certain issue area, and promulgate broad mandates or guidelines for collective action at the national, regional and global level.” Generally, this is done by producing two separate, but complementary, written documents—a declaration and a programme of action. By contrast, rule-making conferences “focus on the drafting of a convention, treaty or other international legal instrument with the intent of codifying, altering, or adding to, the existing body of international public law.”<sup>92</sup> UN conferences also differ according to the frequency and regularity with which they meet. Some conferences meet on a regularly scheduled basis, such as the Conference on Trade and Development (UNCTAD), which meets every four years. Other conferences are *ad hoc*, and occur only

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<sup>92</sup> Volker Rittberger, “Global Conference Diplomacy and International Policy-Making: The Case of UN-Sponsored World Conferences,” *European Journal of Political Research* 11 (1983): 171.

when specifically convened by an organ of the UN, usually the Economic and Social Council (ECOSOC) or the General Assembly.

The UN began convening conferences almost immediately after its creation. Jacques Fomerand identifies the first such gathering as the 1947-1948 Havana conference on Trade and Employment.<sup>93</sup> However, it would not be until the early 1970s that UN conferences emerged as major events on the global scene, following the 1972 Conference on the Human Environment in Stockholm, Sweden. Throughout the 1970s, several UN conferences were held addressing a wide variety of economic and social issues, but by the 1980s, UN conferences became less frequent. The rapid rise and relative decline of UN conferences can be explained as a reflection of broader trends occurring in world politics and at the United Nations during this time. The United Nations was founded in 1945 primarily by states from North America, Europe and Latin America. Throughout the 1940s and 1950s, the major goals of the UN reflected the geo-political interests of the United States and its allies, principally the containment of Soviet communism and the selective promotion of civil and political rights in that context. However, as Western colonialism came to an end, new sovereign states emerged throughout Africa and Asia and became members of the United Nations. Whereas the UN had only 51 member states in 1945, by 1960, it had 99 members and by 1980, it had 154. The UN's newer members brought their own agenda to the world body, focusing on issues such as economic development, global economic inequality and nuclear disarmament. Hence, UN conferences were often initiated at the behest of developing world states, which viewed these conferences as opportunities to discuss issues that were not being addressed by the

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<sup>93</sup> Jacques Fomerand, "UN Conferences: Media Events or Genuine Diplomacy?" *Global Governance* 2, 3 (1996): 361-375.

United Nations, and particularly by the Security Council, which remained firmly in the control of the five veto-wielding states.

However, the 1980s witnessed a decline in the frequency of UN conferences, which can be attributed, in part, to the dual rise of Prime Minister Margaret Thatcher in the United Kingdom and President Ronald Reagan in the United States. Both leaders viewed the United Nations with deep scepticism and sought to resist the growing influence of developing world states within the halls of the UN. In addition, there was a widespread sense—and not only among Western states—that UN conferences had often failed to live up to expectations. UN conferences cost time, money and resources and often did little to produce tangible results. Nonetheless, during the 1990s, UN Conferences witnessed a moderate revival, largely as a result of renewed confidence in the United Nations following the collapse of the Soviet Union and the end of the Cold War.

UN conferences are inherently political events. Key stakeholders often do not agree about what issues should be on the agenda, how they should be addressed, or even whether it is desirable to hold a conference in the first place. Even successful conferences are not able to resolve every issue addressed, and the more contentious conferences often serve only to exacerbate tensions between participants at the state and non-state level. Understandably, opinions about the utility of UN conferences are mixed. Michael Schechter provides a summary of the common contributions and critiques of global conferences. To their supporters, the major contributions of UN conferences are their ability to mobilize governments, NGOs and other engaged political actors, establish new behavioural and normative standards at the global level, introduce new ideas and



proposals, and help monitor progress made toward addressing existing global problems. To their critics, UN conferences are wildly expensive, duplicative of existing international mechanisms, and dominated by considerations of political self-interest.<sup>94</sup> What is beyond debate, however, is that UN conferences have developed during the past few decades to become permanent fixtures on the international political landscape.

### **3.2 – United Nations Conferences on Racism**

Although the Durban Conference is probably the mostly widely known of the UN's conferences on racism, it was not the first time the world body organized a global conference to address this topic. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance was preceded by two UN racism conferences held in 1978 and 1983. Both of these conferences were dominated by debates about apartheid South Africa and the politics of the Middle East, particularly the Israeli-Palestinian conflict. Developing world states used their numerical advantage to control the agenda and push for language in the conference texts that was strongly critical of South Africa and Israel. Western states sought to minimize criticism of these two states and were especially forceful in rejecting efforts to label Zionism as a form of racism. The United States and Israel did not attend either of the two conferences and most Western states—including Canada—walked out of the 1978 conference before its conclusion to protest the language used to describe Israel. In the end, both conferences exacerbated tensions between Western states and developing world states and failed to produce

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<sup>94</sup> Schechter, *United Nations Global Conferences*, 13-17.

significant consensus among participants.<sup>95</sup>

### 3.2.1 - The World Conference to Combat Racism and Racial Discrimination

The first UN conference on racism was held from August 14 to 25, 1978, and occurred in the context of a much larger and sustained effort by the United Nations to address the issue of racism. While some of this work succeeded in promoting international agreement in the fight against racism, some of it served only to exacerbate differences among states. In 1965, the General Assembly adopted the Convention on the Elimination of all Forms of Racial Discrimination, which entered into legal force in 1969. In 1972, the General Assembly initiated the Decade for Action to Combat Racism and Racial Discrimination, which officially began in December 1973.<sup>96</sup> To help organize the UN's activities for the Decade, the General Assembly adopted the "Programme for the Decade for Action to Combat Racism and Racial Discrimination," which declared, *inter alia*, that a major feature of the Decade would be the convening of a world conference to address racism and racial discrimination. The Programme noted that the main theme of the conference would be:

the adoption of effective ways and means and concrete measures for securing the full and universal implementation of United Nations decisions and resolutions on racism, racial discrimination, *apartheid*, decolonization and self-determination, as well as the accession to and ratification and enforcement of the international instruments relating to human rights and the elimination of racism and racial discrimination.<sup>97</sup>

Formal preparations for the conference began in 1976 after the Economic and

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<sup>95</sup> Gene Lyons, "In Search of Racial Equality: The Elimination of Racial Discrimination," in *Global Issues in the United Nations' Framework*, eds. Paul Taylor and A. J. R. Groom (Hampshire U.K.: The Macmillan Press Ltd, 1989), 75-115; Camponovo, "Disaster in Durban,"; Schechter, *United Nations Global Conferences*, 70-73 and 92-95.

<sup>96</sup> United Nations General Assembly Resolution 2919.

<sup>97</sup> United Nations General Assembly Resolution 3057.

Social Council established a 23 Member State Preparatory Sub-Committee to assist with the preparation of the conference, but already by that time, the value of the United Nations as an appropriate institution for addressing the issue of racism had become severely contested. In 1975, the General Assembly adopted Resolution 3379, which declared Zionism to be a form of racism.<sup>98</sup> While states from the developing world supported the resolution, Western states did not, and a major impact of the resolution was to further reinforce and magnify existing geo-political divisions at the UN. As a result of the resolution, the United States declared that it would not participate in any event associated with the UN decade to combat racism, including the 1978 racism conference.<sup>99</sup> Similarly, Israel stated that it would not attend the conference. The World Conference to Combat Racism and Racial Discrimination was, thus, controversial even before it began.

The conference produced both a declaration and a programme of action, which together amounted to an 18-page document containing 69 paragraphs.<sup>100</sup> The conference focused primarily on apartheid South Africa and the Israeli-Palestinian conflict, but also briefly addressed the treatment of indigenous peoples, migrant workers and immigrants. The majority of the conference declaration and programme of action, however, addressed the issue of apartheid, which is mentioned directly in seven of the 27 paragraphs in the conference declaration, and in 19 of the 42 paragraphs in the conference programme of action. By contrast, Israel was directly referenced only in two paragraphs in the declaration and was not referenced once in the programme of action. Beyond South

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<sup>98</sup> United Nations General Assembly Resolution 3379.

<sup>99</sup> United States Participation in the United Nations. Report by the President to the Congress for the Year 1977.

<sup>100</sup> Report of the World Conference to Combat Racism and Racial Discrimination. A/CONF.92/40.

Africa and Israel (and the unrecognized state of Rhodesia which was briefly referenced), no other state was mentioned by name or singled out for criticism in either the declaration or programme of action. This limited agenda reflected the political preferences of most states in the developing world, particularly those in Africa and the Middle East. Hence, the focus was exclusively on racism committed by a few Western states and was not balanced by any corresponding mention of racism perpetrated by states elsewhere in the world, such as anti-Semitism in the Soviet Union, the expulsion of South Asians from Uganda or the Cambodian genocide.

Regarding South Africa, the conference declaration stated that apartheid is a “crime against humanity and an affront to the dignity of mankind.” The declaration further stated that South Africa posed a “threat to peace and security in the world,” language designed to invoke Chapter VII of the UN Charter. The conference programme of action sought to isolate South Africa politically and economically, calling upon states to “prevent transnational corporations and other vested interests from collaborating with the racist regimes in southern Africa” and requesting the UN Security Council to “consider urgently the imposition of comprehensive and mandatory sanctions under Chapter VII of the Charter of the United Nations, against the apartheid regime of South Africa and the racist regimes of southern Africa.”

Regarding Israel, the conference declaration “condemns the existing and increasing relations between the Zionist State of Israel and the racist regime of South Africa, in particular those in the economic and military fields, and deplores and warns against co-operation between them in the nuclear field ... the Conference views this co-operation as an act of deliberate choice, and a hostile act against the oppressed people of

South Africa.” The declaration also:

recalls with deep regret the cruel tragedy which befell the Palestinian people 30 years ago and which they continue to endure today—manifested in their being prevented from exercising their right to self-determination on the soil of their homeland, in the dispersal of hundreds of thousands of Palestinians, the prevention of their return to their homes, and the establishment therein of settlers from abroad, and in the practice of diverse forms of racial discrimination against Palestinians affecting all aspects of their daily lives in a manner which prevents their enjoyment of their elementary human rights on a basis of equality.

On the topic of indigenous peoples, the declaration “endorses the right of indigenous peoples to maintain their traditional structure of economy and culture, including their own language, and also recognizes the special relationship of indigenous peoples to their land and stresses that their land, land rights and natural resources should not be taken away from them.” The programme of action “urges States to allow indigenous peoples within their territories to develop cultural and social links with their own kith and kin everywhere, with strict respect for the sovereignty, territorial integrity and political independence and non-interference in the internal affairs of those countries in which the indigenous peoples live.”

The references to South Africa put Western states in an awkward situation because while they were, at least in principle, opposed to the policy of apartheid, they were unwilling to support the strong language used in the document to characterize the government of South Africa and the particular policy suggestions intended to bring about an immediate end to the apartheid regime. Hence, while Western states did not make significant efforts during the negotiations to remove the references to South Africa from the declaration and programme of action, most of these states issued statements of reservation at the end of the conference announcing that they could not accept many of the paragraphs that addressed South Africa. For example, the Federal Republic of Germany, on behalf of the nine-member European Economic Community (EEC), stated

that “although we understand the feeling behind the phrase “crime against humanity”, we cannot for well-known legal reasons accept this reference” and that “as regards the references to a threat to international peace and security in this paragraph, we do not consider this wording, taken from Chapter VII of the Charter of the United Nations, to be appropriate in these circumstances.”<sup>101</sup>

Western opposition to the references to Israel, by contrast, was far more steadfast and proved to be a deal breaker. Not only did Western states try to remove these references during the negotiations, but when it became clear that they would not succeed in their efforts, they withdrew from the conference altogether. On the conference’s final day, Syria requested roll call votes on the inclusion of each of the two paragraphs that mentioned Israel in the declaration. The vote passed easily, as Western states constituted only a numerical minority at the conference, but the process provided them an opportunity to voice their concerns on the official record. Immediately following the second of the two votes, the nine members of the EEC, joined by Australia, Canada and New Zealand, announced that they would no longer participate in the conference. Norway and Iceland subsequently withdrew as well. An article from the *Globe and Mail* at the time noted that “West German ambassador Per Fischer, speaking for the EEC delegates, told reporters he believes it is the first time the European nine, acting as a bloc, have withdrawn from a UN forum in mid-session. ‘Regrettable, but in the end inevitable,’ he said.”<sup>102</sup> Following the withdrawal of most Western states from the conference, the remaining states adopted the declaration and programme of action by a vote of 88 in

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<sup>101</sup> Ibid.

<sup>102</sup> Associated Press, “Anti-Israeli texts 14 Western Nations Quit UN Conference,” *The Globe and Mail*, August 26, 1978.

support, four against and two abstentions. Having withdrawn from the conference, Canada did not cast a vote.

Canada did, however, issue a brief statement of reservation expressing its position on the conference and the reason for its withdrawal. The statement said that the two paragraphs mentioning Israel “went beyond the legitimate parameters” of the conference and that Canada “could not, therefore, continue to associate itself with the proceedings of the Conference after the acceptance of these paragraphs.” Canada continued that because “these extraneous elements have been incorporated in the Declaration and Programme of Action as a whole ... the Canadian delegation has therefore found it necessary to dissociate itself completely from these texts.”<sup>103</sup>

In addition, a subsequent written report by the Department of External Affairs summarized Canada’s experience at the conference in less diplomatic terms.<sup>104</sup> The report began bluntly by declaring that “the conference did not go well.” The report noted that the declaration and programme of action “contained many elements that caused us difficulty, but we were particularly concerned about two paragraphs that singled out Israel for its links with South Africa, used the term “Zionism” in a derogatory sense, and accused Israel of racial discrimination against the Palestinians.” The report also noted that “attempts by the Canadian Delegation to remove the unacceptable paragraphs on the Middle East and to promote compromise language for the Declaration gained the support of the Western group and were well received by some of the moderate non-aligned. But the atmosphere at the Conference had become so polarized that it turned out to be

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<sup>103</sup> Report of the World Conference to Combat Racism and Racial Discrimination. A/CONF.92/40.

<sup>104</sup> Government of Canada, “World Conference to Combat Racism and Racial Discrimination, Geneva, 14-25 August, 1978.” (August 29, 1978).

impossible to bring about a consensus.”

### **3.2.2 - The Second World Conference to Combat Racism and Racial Discrimination**

Held from August 1 to 12, 1983, the second UN racism conference was timed to mark the close of the UN Decade for Action to Combat Racism and Racial Discrimination. Coming only five years after the first conference on racism, Western states were concerned that another conference would exacerbate the divisions that had marred the first. For their part, UN officials were cautiously optimistic about the opportunity to effectively hold a “do over” of the first conference. In his opening address to the second conference, James Jonah, the Conference Secretary-General, pleaded with states to “exercise maximum restraint in ensuring that we do not repeat the events of 1978 which in the long run proved to be detrimental to a successful outcome of the Decade which comes to an end this year.”<sup>105</sup> To that end, Jonah’s address focused almost entirely on the need for states to work toward the eradication of apartheid and was careful to avoid any mention of the Middle East.

Nonetheless, the second conference was, for the most part, a repeat of the first. One notable difference was that Western states did not withdraw from the conference despite their disagreement with several portions of the declaration and programme of action. But once again, the United States and Israel refused to attend. As expected, the conference focused again on South Africa and Israel while ignoring events in any other part of the world. On South Africa, the declaration stated that apartheid was a “crime against humanity and a threat to international peace and security.” The programme of

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<sup>105</sup> Report of the Second World Conference to Combat Racism and Racial Discrimination. A/CONF.119/26.



action “further reaffirms the legitimacy of the struggle of the oppressed people of South Africa and Namibia and their national liberation movements for the elimination of apartheid by all available means, including armed struggle, and the special responsibility of the United Nations and the international community to provide them with moral, political and material assistance in the realization of their quest to exercise their right to self-determination.” For their part, Western states reiterated their position that while they were opposed to the policy of apartheid, they did not consider it legally accurate to label it a crime against humanity, and they were not willing to support language designed to invoke Chapter VII of the UN Charter. In addition, they objected to the programme of action’s support of “armed struggle” against the apartheid regime and voted against the inclusion of this paragraph in the final text.

The declaration included two paragraphs referencing Israel—one addressing diplomatic cooperation between Israel and South Africa and another on Israeli policies toward the “Palestinians and the other inhabitants of the Arab territories occupied by Israel.” While the paragraph on Israeli-South African relations was repeated almost verbatim from the 1978 text, the second paragraph was comparatively less inflammatory than the language used at the first racism conference. The second paragraph read:

The Conference recalls with deep regret the practices of racial discrimination against the Palestinians as well as other inhabitants of the Arab occupied territories which have such an impact on all aspects of their daily existence that they prevent the enjoyment of their fundamental rights; the Conference expresses its deep concern about this situation and calls for the cessation of all the practices of racial discrimination to which the Palestinians and the other inhabitants of the Arab territories occupied by Israel are subjected.<sup>106</sup>

The decision to use more moderate language reflected the desire of developing world states to criticize Israel in a manner that would not provoke the sort of strong backlash from Western states that occurred at the first racism conference. In this regard, they were

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<sup>106</sup> Ibid.

successful. Western states voiced their displeasure by voting against the inclusion of each of these two paragraphs, but they did not withdraw from the conference.

On the topic of indigenous rights, the conference took the notable step of refraining from using, as it had in 1978, the term “indigenous peoples” and used in its place the term “indigenous populations.” The choice of terminology is significant because the UN Charter, as well as a variety of other international legal documents, grant self-determination rights to peoples, but not to populations.<sup>107</sup> For example, the UN Charter twice refers to “the principle of equal rights and self-determination of peoples,” while making no mention whatsoever of the term “populations.” The decision to use the term populations rather than peoples was therefore viewed by indigenous peoples as an effort to limit their rights under international law.

In the end, the declaration was adopted by a vote of 101 in support, 12 against and three abstentions while the programme of action was adopted by a vote of 104 in support, zero against and 10 abstentions. As they explained in their respective statement of reservations, Western states opposed the declaration because of the two paragraphs referring to Israel, and while they were critical of some of the language used in the programme of action to describe South Africa, they were content to abstain rather than vote against the text as a whole.

Canada voted against the declaration and abstained on the programme of action. In its statement of reservation, Canada said that it “would have liked to be able to associate itself more closely than its vote indicates with the Declaration and Programme of Action” and that the texts “contain a large number of measures and recommendations

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<sup>107</sup> Jennifer Dalton, *International Law and the Right of Indigenous Self-Determination: Should International Norms be Replicated in the Canadian Context?* (Kingston: Queen’s University Institute of Intergovernmental Relations, 2005).

which will guide Canada” in its efforts to combat racism, racial discrimination and apartheid. Canada stated that it “unequivocally condemns the institutionalized racism which apartheid represents.” But Canada also said that it was “unable to associate itself with the Declaration because political matters extraneous to the fundamental concerns of the Conference have been introduced into it.” Canada referred to the two paragraphs on Israel as “unacceptable to Canada” and “outside the terms of reference of the Conference” and further stated that “certain references to South Africa are likewise drafted in terms that are unacceptable to Canada.” Regarding the Programme of Action, Canada stated that it supported “most” of the text, but had “serious reservations” about some of the measures recommended against South Africa.

A subsequent report by the Department of External Affairs described the declaration as a “package worthy of support from all delegates if it had not contained a couple of litigious paragraphs ... dealing with relations between Israel and South Africa and the treatment of inhabitants of the Arab occupied territories by Israel.”<sup>108</sup> Canada opined that “without these two paragraphs, the Declaration would most probably have been adopted unanimously.” Canada further suggested that the Programme of Action was met with “general support and would have been endorsed by all delegations, with few reservations, if it had not been for some aspects of the section on apartheid,” in particular the paragraph supporting “armed struggle” against the government of South Africa. In a section discussing Canada’s contribution to the conference, the report stated that Canada focused on the issue of “systemic discrimination and affirmative action” and could claim significant credit for the inclusion of several paragraphs in the Declaration and

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<sup>108</sup> Government of Canada, “Second World Conference to Combat Racism and Racial Discrimination,” Geneva, August 1-12, 1983. (November 15, 1983).

Programme of Action, such as those endorsing affirmative action programmes, anti-racism education curricula, and “non-discrimination, with particular regard to refugees fleeing from apartheid, racism and racial discrimination.” The report concluded on an optimistic note about the future impact of the racism conference, stating an expectation that UN racism conferences were likely to become regular events occurring on a five-year basis and that the Conference Declaration and Programme of Action are “likely to inspire and support the efforts of governments, non-governmental organizations and individuals combating racism and racial discrimination.”

### **3.3 - Conclusion**

In the end, the first and second World Conferences to Combat Racism and Racial Discrimination failed to achieve their principal goals of promoting greater international cooperation among states and strengthening the UN as an effective institution in the fight against racism. From the outset, the conferences were hindered by geo-political divisions between states. Because the conferences placed so much focus on only a few Western states, they created a political environment in which it was impossible for states to reach a consensus, especially on the topic of the Middle East. Disagreement about the usefulness of the two conferences ultimately prevented the UN from establishing conferences on racism as regular events occurring every five years. As Schechter noted, the experience of the two conferences made clear that it “would not make much sense to convene another global conference on this topic until the “Zionism as racism” resolution had been dumped in the dustbin of world history.”<sup>109</sup>

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<sup>109</sup> Schechter, *United Nations Global Conferences*, 95.

## **CHAPTER 4: THE INTERNATIONAL PREPARATIONS (PART I)**

Like any United Nations conference, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance was preceded by months of extensive preparatory work as states and UN officials worked to establish the conference's themes, agenda and substantive content. At the international level, Canada participated actively throughout this process and attended key regional and multilateral meetings beginning in the spring of 2000 and continuing until the World Conference in September 2001. Chapter 4 begins the analysis of these meetings. It examines the first of three Preparatory Committee meetings at which states negotiated and established the scope and domain of the World Conference, and focuses on Canada's participation therein. It also discusses Canada's participation at the Regional Conference of the Americas, which was held in Chile, in December, 2000.

### **4.1 - The First Preparatory Committee Meeting**

Held at the UN Office in Geneva from May 1 to 5, 2000, the first Preparatory Committee meeting was the first major event of the international preparations for the World Conference against Racism.<sup>110</sup> Organized by the UN Commission on Human Rights, which had been tasked with managing the UN's preparations for the World Conference, the meeting was attended by 125 UN Member States as well as two non-member states represented by observers (Holy See and Switzerland) and one non-state observer (Palestine). Also in attendance were numerous UN bodies and human rights

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<sup>110</sup> World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Report of the Preparatory Committee on its First Session. A/CONF.189/PC.1/21.

mechanisms, specialized UN agencies, several intergovernmental organizations and dozens of NGOs, including some Canadian NGOs.

In her opening address, Mary Robinson, the UN High Commissioner for Human Rights and Secretary-General of the WCAR, stated that the World Conference had the potential to be “a landmark in the struggle to eradicate all forms of racism.”<sup>111</sup> Robinson noted that while the two previous UN racism conferences had focused primarily on apartheid South Africa, the upcoming conference—fully entitled the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance—“extends its scope to the many forms of racism and bigotry in our modern world, to xenophobia in all its manifestations; to anti-Semitism; negrophobia; discrimination against indigenous peoples, migrants, refugees, displaced persons and the minority communities such as the Roma and Sinti.” In an effort to put pressure on Western states, in particular, Robinson emphasized the “economic dimension” of racism and stated that the “gulf between the rich and the very large numbers who live in dire poverty is widening all the time ... While some are aware of this gulf and attempt to bridge it, many prefer to adopt a fortress mentality, based on a determination to defend their prosperity against perceived external threats.” She also noted that governments carry a particular responsibility to combat racism, but that “unfortunately, not all political leaders act in a responsible way. The rise of far right parties in Europe is a clear example of unscrupulous politicians playing on fears.” Notably absent from Robinson’s address, however, was any reference to the politics of the Middle East, an issue that had occupied a central place on the agenda of the two previous racism conferences, and which, as Robinson surely knew at the time, had

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<sup>111</sup> Mary Robinson, “The Spirit of the Century: One Human Family,” Address by Mary Robinson, United Nations High Commissioner for Human Rights and Secretary-General of the World Conference against Racism. May 1, 2000.

the potential to dominate the upcoming conference as well.

The agenda of the first Preparatory Committee meeting was devoted in large part to technical and procedural matters, including establishing rules of procedure, addressing the issue of NGO participation, and selecting the dates, duration and venue of the conference. Early on in the session, states unanimously accepted an offer by South Africa to serve as the host country. The first session also set the timeline for subsequent international preparations, deciding that a second session of the Preparatory Committee would be held in May 2001 and that an inter-sessional working group would be held in January 2001. States also decided on a slogan for the World Conference: “United to Combat Racism: Equality, Justice, Dignity.” Additionally, states received written reports pertinent to the international effort to combat racism produced by various UN specialized agencies and treaty bodies. These reports helped to inform the negotiation process.

The Canadian delegation at the first Preparatory Committee meeting consisted of three officials from the Department of Foreign Affairs and International Trade, two from the Department of Canadian Heritage, and one from the Canadian Human Rights Commission. As mentioned in Chapter 1, DFAIT’s main responsibilities for the World Conference were to lead the Canadian delegation during the preparatory processes and at the World Conference itself, coordinate Canada’s position on international issues, consult and negotiate with other states, and consult with the various administrative arms of the UN. As explained in a DFAIT pre-assessment of the meeting, Canada approached the first Preparatory Committee meeting with five key objectives.<sup>112</sup> Canada wanted the World Conference to establish a broad and forward-looking agenda, involve significant

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<sup>112</sup> Department of Foreign Affairs and International Trade, “First PrepCom Meeting for the World Conference against Racism – Instructions for Candel,” (April 28, 2000).

NGO participation, involve significant youth participation, and ensure the involvement of various UN specialized agencies. In addition, Canada planned to use the meeting as an opportunity to prepare for the upcoming regional preparatory meeting of the Americas, scheduled to be held in December. The remainder of this chapter thus evaluates Canada's participation at the first Preparatory Committee meeting in the context of Canada's priorities for the meeting.

To begin, Canada wanted the first Preparatory Committee meeting to address "broad themes of the conference agenda and the potential range of outcomes." Significantly, Canada wanted the themes to be "consistent with a forward-looking, results-oriented Conference and should discourage discussions that go into too much detail on the agenda or attempt to narrow its potential scope."<sup>113</sup> Reading between the lines of this seemingly innocuous statement reveals two important points about Canada's approach to the World Conference. First, members of the Canadian delegation had been briefed on the previous UN racism conferences and were well aware of the divisive debates that occurred over South Africa and Israel. Hence, Canada was keen to avoid discussion of specific states and geopolitical conflicts, particularly the Arab-Israeli conflict. Second, the phrase "forward-looking" was effectively a diplomatic euphemism meaning that the conference should not explore the question of reparations for past racially-motivated injustices. While Canada was willing to talk about its past, it did not view the World Conference against Racism as an appropriate forum to help launch new policies designed to provide resources to historically marginalized groups in Canada.

While the first Preparatory Committee meeting did not address the Middle East, the question of reparations could not be avoided. After several days of negotiation, states

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<sup>113</sup> Ibid.



adopted the five themes of the World Conference:

- 1) “Sources, causes, forms and contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance.
- 2) “Victims of racism, racial discrimination, xenophobia and related intolerance.
- 3) “Measures of prevention, education and protection aimed at the eradication of racism, racial discrimination, xenophobia and related intolerance at the national, regional and international levels
- 4) “Provision of effective remedies, recourse, redress, [compensatory] and other measures at the national, regional and international levels.
- 5) “Strategies to achieve full and effective equality, including international cooperation and enhancement of the United Nations and other international mechanism in combating racism, racial discrimination, xenophobia and related intolerance, and follow-up.”<sup>114</sup>

The debate on the fourth theme was fraught with controversy and lasted late into the evening on the final day of the Preparatory Committee meeting. African states pushed strongly for the inclusion of the term “compensatory” and argued that the question of reparations for the transatlantic slave trade should be discussed at the World Conference. The reference to measures at the regional and international levels indicated that a key component of this argument was the implementation of some form of state-to-state reparations. The United States took the lead in opposing this position, and was joined by other Western states, including Canada. The issue was resolved temporarily when states agreed to put the term in square brackets, a common practice at the UN indicating that the identified language had not been agreed upon by consensus and thus remained open for subsequent negotiation.

There is no denying that the transatlantic slave trade was a racist and inhumane practice, and that its political, economic and social consequences continue to be felt today. During a period of roughly four hundred years, European and North America slave traders transported more than 11 million African slaves across the Atlantic Ocean to the

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<sup>114</sup> World Conference against Racism, A/CONF.189/PC.1/21.

Americas.<sup>115</sup> In addition, more than a million Africans died in captivity either in the process of being transported from the African interior to coastal slave trading ports or aboard ships sailing across the Atlantic Ocean. The transatlantic slave trade had severe consequences not only for those individuals sold into slavery, but also for the African societies from which they were taken and the societies to which they were transported. Today, African countries remain among the poorest and least developed in the world, while people of African descent throughout Europe and the region of the Americas continue to face significant barriers to the full enjoyment of their human rights. While the causes of these contemporary problems are multifaceted, the impact and legacy of the transatlantic slave trade is certainly among one of the major causal factors.

Nonetheless, as Camponovo notes, Western states offered several “factual and legal” arguments against reparations for the transatlantic slave trade.<sup>116</sup> First, Western states argued that it was problematic for the discussion about slavery at the World Conference to focus narrowly on the history and legacy of the transatlantic slave trade while ignoring the historical practice of slavery and the slave trade in other regions of the world. Moreover, Western states noted that while they have since abolished the slave trade and the practice of slavery, slavery continues to exist elsewhere in the world in the present-day. Second, Western states argued that the discussion of the transatlantic slave trade ignored the active role that some Africans played throughout the slave trade and the fact that slavery in Africa existed prior to the arrival of Europeans in the fifteenth century. Third, Western states argued that there are many reasons for Africa’s current political and economic underdevelopment, and that it is inaccurate to assign a direct,

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<sup>115</sup> Johannes Postma, *The Atlantic Slave Trade* (Westport, CT: Greenwood Press, 2003), 36.

<sup>116</sup> Camponovo, “Disaster in Durban,” 670-678.

causal link between these problems and the transatlantic slave trade. Fourth, Western states felt that if the primary purpose of reparations was to compensate the victims of slavery and the slave trade, then it would be misguided to implement state-to-state reparations when the majority of the descendants of those victimized by the slave trade live today in Europe and North America, not in Africa.<sup>117</sup>

Western states also advanced a legal argument against reparations. This argument held that there is no basis in law for a claim of reparations for the transatlantic slave trade because the practice was legal under international law at the time that it occurred.

International legal measures to eliminate slavery and the slave trade began only in the late-eighteenth century, and among the more significant international laws and treaties in this regard are the 1842 Webster-Ashburton Treaty; the 1862 Treaty for the Suppression of the African Slave Trade; the 1885 General Act of Berlin; the 1890 General Act of Brussels on the Slave Trade and Importation into Africa of Firearms, Ammunition, and Spirituous Liquors; the 1919 Treaty of St. Germain-en-Laye; and the 1926 Convention to Suppress the Slave Trade and Slavery.<sup>118</sup> As Camponovo concludes, “since international law did not consider slavery unlawful until at the earliest, the entry into force of the Treaty of St. Germain-en-Laye, claims for redress for acts of slavery could not legitimately be based on acts that predated the turn of the twentieth century.”<sup>119</sup>

This conclusion effectively characterized Canada’s view of international law during the reparations debate at the first Preparatory Committee meeting and throughout the World Conference process. As a DFAIT report on the meeting explained, Canada

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<sup>117</sup> Ibid.

<sup>118</sup> Ibid.

<sup>119</sup> Ibid, 677.

expressed concern that “the reference to compensation, as drafted, could be interpreted as going beyond the existing duty contained in international human rights treaties incumbent on States to provide redress to victims of human rights violations, and entail some form of international compensation.”<sup>120</sup>

In sum, the emergence of the reparations debate on the agenda of the World Conference can be seen as a blow to Western states, which would have preferred to avoid discussion of the issue altogether. Accordingly, it was also a blow to Canada’s efforts to maintain what it called a “forward-looking” agenda. From the point of view of African states, of course, the reparations debate was a vital part of the World Conference against Racism agenda and one that Western states could not ignore. The debate that occurred on this issue at the first Preparatory Committee meeting served as an early indicator of the geopolitical divisions that would surround the World Conference and set the tone for subsequent debate on the reparations issue throughout the World Conference process.

Canada’s second objective at the first Preparatory Committee meeting was to advocate for widespread inclusion of NGOs throughout the Durban preparatory process and at the World Conference itself. Here, Canada achieved some important success. Since 1996, NGO participation at the United Nations had operated within the framework of Economic and Social Commission (ECOSOC) Resolution 1996/31, which established a set of principles governing NGO “consultative status” with the United Nations. NGOs that received consultative status had increased access and greater ability to present input to various UN meetings. Any NGO that held consultative status with ECOSOC would automatically receive accreditation to attend the World Conference against Racism and

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<sup>120</sup> Department of Foreign Affairs and International Trade, “First PrepCom Meeting for the World Conference against Racism,” (May 9, 2000).

the parallel NGO Forum, but NGOs that did not hold this status would have to apply for accreditation from the Preparatory Committee. Because the Preparatory Committee was not scheduled to meet again until May 2001, Canada expressed concern that the application process for NGO accreditation would be slow and burdensome, and that many Canadian NGOs that lacked consultative status would face difficulty participating in the World Conference. Canada thus successfully pushed for the UN to create a mechanism to process NGO applications for accreditation while the Preparatory Committee was not in session. Similarly, Canada “secured a fast-track accreditation process for indigenous groups already accredited to the Working Group on the Draft Declaration on the Rights of Indigenous Peoples.”<sup>121</sup>

In addition, Canada wanted to “liaise early and frequently” with Canadian NGOs at the first Preparatory Committee, noting that at “this planning stage of the domestic consultation process, it will be important to set a precedent of a good working relationship at this UN forum.”<sup>122</sup> Once again, Canada achieved some success toward this goal. Among the Canadian NGOs and other civil society groups that attended the first Preparatory Committee Meeting were the African Canadian Coalition Against Racism (ACCAR), the Canadian Labour Congress (CLC), the Canadian Race Relations Foundation (CRRF), Article 19, Human Rights Internet, the International Feminist Alliance, Minority Rights Group, the International Centre for Human Rights and Democratic Development (Rights and Democracy) and the Franciscans. According to a report by the African Canadian Legal Clinic (a member of the ACCAR), the Canadian

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<sup>121</sup> Ibid.

<sup>122</sup> Department of Foreign Affairs and International Trade, “First PrepCom Meeting for the World Conference against Racism – Instructions for Candel,” (April 28, 2000).

delegation held two formal meetings and several more informal meetings with Canadian NGOs. During these meetings, the Canadian delegation briefed NGOs on key developments at the multilateral negotiations while NGOs were offered an opportunity to discuss their ideas and concerns with the government. The African Canadian Legal Clinic (ACLC) raised questions about various issues, including the “flow of information from government,” the level of NGO consultation, Canada’s plans to provide financial support for NGOs to participate in the World Conference, and Canada’s definition of the term “related intolerance.”<sup>123</sup>

At the same time, relations between the government and Canadian NGOs were not without challenges. The ACLC also expressed frustration that while members of the Canadian delegation were highly skilled as diplomats, they generally lacked experience working on policy matters related to issues of race and racism in Canada (ACLC Newsletter). There were also some disagreements among Canadian NGOs. The first Preparatory Committee meeting allocated some time for NGOs to address states directly but the only Canadian NGO to deliver such an address—the ACCAR—issued a statement that strongly condemned Canada’s “history of sweeping racism under the rug” and argued that “while it is true that racism is pervasive and embedded in all structures of society, it is people of African descent who are the primary target domestically and globally ... domestically, anti-Black racism which is rooted in slavery, colonialism and white supremacy, is a fundamental aspect of Canadian history and culture.”<sup>124</sup> According to the DFAIT report on the first Preparatory Committee meeting, the strong language

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<sup>123</sup> The African Canadian Legal Clinic, “Summary Report of The African Canadian Legal Clinic’s Activities at the First Session of the Preparatory Committee on The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.”

<sup>124</sup> The African Canadian Legal Clinic, “Newsletter of the African Canadian Legal Clinic,” (Undated).

used by the ACCAR did not sit well with some of the other Canadian NGOs in attendance, which felt that the tone was combative and might create difficulties in promoting cooperation among NGOs and with the Canadian government. From the perspective of DFAIT, “there was little cooperation among the Canadian NGOs present with clear divisions between the [international non-governmental organizations], the CRRF and the Feminist Alliance on the one hand and the ACCAR and the CLC on the other.”<sup>125</sup> These divisions reflected the competing strategies among NGOs regarding how they should balance the task of working cooperatively with the government while also not shying away from directly addressing the issue of racism in Canada and, in some cases, expressing the viewpoint that the government’s response was inadequate to meet the needs of historically marginalized communities. Hence, while there was much cooperation among Canadian NGOs, there was also some divergence of interests as well.

One last point to mention about the role of Canadian NGOs at the first Preparatory Committee Meeting—albeit one that does not involve the Canadian government *per se*—is their participation in meetings with NGOs the world over to discuss the establishment of an international NGO Coordinating Committee for the World Conference. For the next 16 months, the Committee would serve as one of the key groups responsible for organizing the NGO Forum, facilitating NGO participation in the World Conference, and disseminating information about the World Conference to NGOs throughout the world. The NGO Coordinating Committee was composed of 61 members, selected to ensure that each region of the world received representation on the body. NGOs from Canada were allocated one spot on the committee and those Canadian NGO

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<sup>125</sup> Department of Foreign Affairs and International Trade, “First PrepCom Meeting for the World Conference against Racism,” (May 9, 2000).

officials present at the first Preparatory Committee meeting selected Margaret Parsons, executive director of the African Canadian Legal Clinic, to represent Canadian NGOs. In the subsequent months, Parsons attended key international preparatory meetings for the World Conference and provided ongoing updates to many Canadian NGOs about the preparations for Durban. The active involvement of Canadian NGOs with the work of the NGO Coordinating Committee was thus another important development that was consistent with Canada's overall goal of promoting NGO participation at the World Conference.

Canada's third objective at the first Preparatory Committee Meeting was to ensure that the Durban Conference and preparatory process would provide meaningful opportunities for youth involvement. At the domestic level, Canadian Heritage had initiated several programs designed to engage youth in the struggle against racism, including the "Racism. Stop It! Action 2000" campaign. Throughout the preparations for the World Conference, Canada felt that "the participation of youth in the development of action-oriented strategies to combat racism is key to the building of positive relations between communities and peoples."<sup>126</sup> As a result, at the first Preparatory Committee meeting (and throughout the preparatory process), Canada pushed to give youth a greater role at the World Conference. Ultimately, this effort culminated in Canada taking a leading role in organizing the International Youth Forum against Racism (held in Germany in August 2000) and the International Youth Summit, which was held in Durban a few days prior to the World Conference.

Canada's fourth objective was to promote the extensive participation of various

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<sup>126</sup> Department of Foreign Affairs and International Trade, "First PrepCom Meeting for the World Conference against Racism – Instructions for Candel," (April 28, 2000).



UN specialized agencies and human rights mechanisms throughout the World Conference. Canada specifically highlighted organizations such as the UN treaty bodies and the United Nations Children's Fund (UNICEF) as organizations that "do concrete, field-level work" and as examples of UN agencies and mechanisms that should be given a key role to play at the World Conference.<sup>127</sup>

Canada's fifth key objective was to prepare for the upcoming regional preparatory meeting of the Americas. Ordinarily, Canada is a member of the Western European and Others Group (WEOG) and participates in that group's regional meetings. However, as European states began their preparations for the World Conference, it became clear that they intended to develop a common set of European Union (EU) positions, and that it would therefore be difficult for non-EU members to have meaningful input at the upcoming WEOG regional meeting, held in Strasbourg, France. Hence, Canada (and the United States, which faced the same situation) attended the first Preparatory Committee meeting already having made prior arrangements to participate in the regional meeting of the Americas instead.

At the time, the Americas meeting was scheduled to be held in Brazil in December 2000. However, at the first Preparatory Committee meeting, Brazil announced unexpectedly that it was withdrawing its offer to host the event. This decision created a logistical dilemma for all states and NGOs in the region as states had to scramble to arrange an alternate venue while NGOs had to ensure that they were kept up to speed with new developments. Canada thus spoke to a number of other states in the region to reiterate the importance that Canada attached to the regional meeting of the Americas and the opportunity for Canada to attend. In the subsequent discussions, both Costa Rica and

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<sup>127</sup> Ibid.

Uruguay were considered as potential sites for the meeting, but eventually it was decided that Chile would serve as host. There was never any serious discussion about the possibility that Canada (or the United States) would serve as host. As the DFAIT report explained, “it would be a logistical near-to-impossibility” for Canada to host the meeting given its other commitments at the time, and, perhaps more importantly, Canada “would also be concerned about perceived (or real) domination of this event by a North American host.”<sup>128</sup>

One last significant development at the first Preparatory Committee meeting was that states requested that Mary Robinson prepare a draft version of a declaration and programme of action to serve as a guide for subsequent negotiation. The draft text would be based on the outcomes of each of the upcoming regional preparatory meetings as well as input from states, UN specialized agencies, other administrative arms of the UN, and NGOs. The Robinson draft was completed in February 2001 and presented to states in advance of the inter-sessional working group meeting in March. The content of the draft and the response it elicited from states is a central focus of Chapter 6. Suffice it to say, it proved to be highly divisive.<sup>129</sup>

In sum, the first Preparatory Committee meeting made important progress in establishing the groundwork for the World Conference, but also produced some early tensions between states, particularly over the issue of reparations. The issue polarized states along the North-South divide, with Western states on one side of the debate and states from Africa, Asia, the Middle East and South America on the other. In this context,

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<sup>128</sup> Department of Foreign Affairs and International Trade, “World Conference against Racism – Regional Preparatory Meeting,” (May 11, 2000).

<sup>129</sup> Camponovo, “Disaster in Durban,” 669.

Canada sided firmly with other Western states in opposing the creation of new international agreements to provide reparations for past racially-motivated injustices, most notably the trans-Atlantic slave trade. With regard to its other key objectives, Canada achieved meaningful success, particularly on the issue of promoting NGO and youth involvement at the World Conference. The government and Canadian NGOs established a productive working relationship and maintained an open dialogue about key developments at the negotiations. This relationship was not without challenges, and there were clear limits to the level of influence that NGOs held over the government's positions. Nonetheless, the first Preparatory Committee meeting set a positive tone for future interaction between the Canadian government and Canadian NGOs regarding the World Conference against Racism.

#### **4.2 - The Regional Conference of the Americas**

Following the first Preparatory Committee meeting, the next major international preparatory events were a series of regional preparatory meetings. Four regional meetings were held, in Europe (October 2000), the Americas (December 2000), Africa (January 2001) and Asia (February 2001). The purpose of the regional meetings was to provide states an opportunity to discuss their positions on the five themes of the World Conference and to produce regional declarations and programmes of action that would be used as a basis for negotiation for a global declaration and programme of action. Hence, whereas the first Preparatory Committee meeting focused mostly on procedural and technical matters, the regional meetings allowed states to debate the substantive content of the World Conference in greater depth. As a result, many of the most contentious

issues that would come to dominate the World Conference against Racism were first raised at this stage in the preparatory process. This section examines Canada's participation at the Regional Conference of the Americas, during which Western hemispheric states held important debates about many issues, including the rights of indigenous peoples as well as the legacy of the transatlantic slave trade, colonialism and the issue of reparations.

The Regional Conference of the Americas was held in Santiago Chile, from December 5 to 7, 2000.<sup>130</sup> Twenty-four states attended the conference as participants from the Western hemisphere. Also in attendance were four observer states from outside the region (Iran, New Zealand, South Africa, and Sweden), various UN bodies and human rights mechanisms, international organizations, national institutions, and more than 100 NGOs from around the region, including more than a dozen from Canada. The opening ceremony of the conference featured statements by the Vice President of Chile, José Miguel Insulza, and the High Commissioner for Human Rights, Mary Robinson, among others. On the first day of the conference, delegates confirmed Chile as the president of the conference, and named six vice-presidents, one of whom was Canada.

In the end, the Regional Conference of the Americas produced a 76 paragraph declaration and a 149 paragraph plan of action. The two documents addressed a broad set of issues involving racism, racial discrimination, xenophobia and related intolerance in the Americas. Among the issues addressed were the rights of indigenous peoples, people of African descent, migrants, Mestizo populations, persons of Asian descent, women, Jews, Arabs, refugees, asylum seekers and internally displaced persons. Although states

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<sup>130</sup> World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Report of the Regional Conference of the Americas, Santiago, Chile, 5-7 December 2000. A/CONF.189/PC.2/7.

were able to reach a consensus on most of these issues, consensus was not always possible. Throughout the Regional Conference of the Americas, there was a notable divide along regional lines, as the United States and Canada adopted positions on key issues that were at odds with the positions adopted by the Latin American and Caribbean states (GRULAC). As a DFAIT report on the event noted, the “Conference was a difficult exercise during which the differences between the Northern and the Southern parts of the hemisphere were put in evidence on more than one occasion.”<sup>131</sup> These differences were most clearly seen on issues involving the rights of indigenous peoples and people of African descent, the reparations debate, and on language discussing international law and the duties of states. The United States and Canada each issued several statements of reservation indicating that they did not accept some of the language contained in the Regional Conference of the Americas declaration and plan of action. They were the only two states to do so.

Organizationally, the Regional Conference of the Americas was a difficult experience for Canada. The DFAIT report provided the following summary of the overall structure and process of the three-day conference:

Negotiations started late Tuesday afternoon (after a delay in producing the annex document) and finished a review of the preamble by the end of the day. Although the original plan was for negotiations to continue in one drafting committee, it was evident that time would not be sufficient, and as of the Wednesday afternoon, negotiations took place in two drafting committees, one on the Preamble and Declaration and the other one on the Plan of Action. We started the negotiations started [sic] late Tuesday afternoon and finished a review of the preamble by the end of the day. However, it took until Thursday morning (the final day of the conference) to complete the first reading of the draft Declaration and Plan of Action. During the course of the 3 days, delegations submitted an important number of new proposals, particularly for the Plan of Action, often in Spanish only. While some of the paragraphs were discussed for hours, others were considered for less than a minute given the time pressures towards the end (and some were dropped completely). Canada successfully presented a series of new paragraphs on youth participation, civil society,

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<sup>131</sup> Department of Foreign Affairs and International Trade, “Regional Preparatory Conference of the Americas for the World Conference against Racism (WCAR),” (Undated).

media and advertising, indigenous women, Asians, workers and national institutions.<sup>132</sup>

The Canadian delegation was led by Hedy Fry and consisted of 15 government officials—seven from Canadian Heritage, six from Foreign Affairs and International Trade, one from Indian and Northern Affairs, and the Canadian Ambassador to Chile. In addition, the Canadian delegation included an observer from the Canadian Human Rights Commission and four “non-governmental observers” representing Aboriginal organizations and NGOs. Canada also sponsored eight non-governmental organizations to attend, though not as members of the delegation.

Canada’s efforts to include Aboriginal organizations and NGOs at the Regional Conference of the Americas (and, more generally, throughout the entire World Conference process) proved to be somewhat of a double-edged sword for the government. On the one hand, the government was able to use their inclusion to help bolster its claim that Canada existed as a positive example of a multicultural and inclusive country. On the other hand, it contributed to divisions between the government and civil society members as the latter were not always satisfied with Canada’s stated policy positions and worked to highlight the discrepancies between the government’s positions and the sometimes conflicting reality of Canada’s domestic situation. Conversely, the arrangement proved to be somewhat of a mixed blessing for Canadian NGOs and Aboriginal organizations. On the one hand, their participation on the government delegation allowed them greater access to government officials and helped to enhance their profile and reputation while they worked to establish advocacy networks with international NGOs and indigenous groups. On the other hand, they were well aware that the government sought to use their presence at the regional conference to help bolster

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<sup>132</sup> Ibid.

its public image. In this sense, the government, Canadian NGOs and Aboriginal organizations all worked together in a symbiotic fashion throughout the World Conference preparatory process.

As was the case at the First Preparatory Committee meeting, the government held regular meetings with Canadian NGOs and Aboriginal organizations to update them about the status of the negotiations and to maintain an open line of communication. Once again, Canadian NGOs and Aboriginal organizations expressed their concerns about some of the positions adopted by Canada as well as the mechanisms established by the government to dialogue and consult with civil society. Many Canadian NGOs and Aboriginal organizations were frustrated that the government was not able to complete the domestic consultation process before attending the Regional Conference of the Americas. There was also a sense that the government was not taking the domestic consultations process as seriously as it could and appeared to treat the process in some ways like an afterthought when deciding its positions on important and contentious issues. Aboriginal organizations, in particular, strongly encouraged the government to endorse the right of self-determination for indigenous peoples and to critically re-examine its domestic record on racism and Aboriginal peoples. In addition, there was a concern that the process by which government selected NGOs to participate on the official government delegation was not as transparent as it could have been. It was suggested that NGOs could benefit by receiving additional financial resources in order to better prepare for the World Conference against Racism and to cover the costs of travelling abroad to attend the various international preparatory meetings. Lastly, it was recommended that the government provide financial resources particularly to the many Canadian NGOs and

Aboriginal organizations that wished to participate more fully in the World Conference process.

Broadly, Canada's central goals for the Regional Conference of the Americas were "to share the Canadian experience of diversity ('valuing difference') in order to influence world progress on fighting racism and related intolerance" and "to advance Canada's domestic agenda and its strategy to combat racism by raising awareness, building capacity amongst civil society."<sup>133</sup> Over the course of the three-day conference, Canada delivered two statements to the plenary session and one statement to the chair of the negotiating committee. The statement to the negotiating committee outlined Canada's key priorities for the Regional Conference of the Americas while the two statements to the plenary session discussed the domestic history and politics of race, visible minorities and Aboriginal peoples in Canada. Taken at face value, the two statements to the plenary session are notable for the candour with which Canada was willing to discuss the existence of racism in Canada both as a historical issue and as a contemporary reality. At the same time, many Canadian NGOs and Aboriginal organizations found it problematic that Canada's public acknowledgements abroad of its shortcomings were not accompanied by more concrete efforts to eliminate racism in Canada. They appreciated the government's rhetoric, but wanted greater action.

Nonetheless, it is worth reviewing Canada's public pronouncements in order to highlight how Canada presented its domestic record to an international audience. At the outset of the Regional Conference of the Americas, Canada delivered a statement to the chair of the negotiating committee in which Canada outlined its 10 priorities for the

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<sup>133</sup> Department of Canadian Heritage, "Regional Meeting of the Americas, Santiago (Chile)," (December 5-7, 2000).



conference.<sup>134</sup> The priorities were:

- 1) Telling the Truth
- 2) Recognizing Victims and Vulnerable Groups
- 3) Intersectionality
- 4) Valuing Our Diversity
- 5) Role of Civil Society
- 6) Youth
- 7) Hate and Bias
- 8) International Issues
- 9) Education and Other Concrete Preventative Strategies
- 10) Contribution to the World Conference

In the statement, delivered by a senior DFAIT official, Canada indicated that “we must acknowledge that the history of the Americas has not always been one of inclusion and respect, but rather has been and remains one often characterized by racism, racial discrimination, xenophobia and related intolerance” and that “telling the truth about the history and ongoing manifestations of racism in the Americas is essential to reconciliation.” Canada specifically highlighted indigenous peoples as one set of victims and vulnerable groups and noted that the impact of racism can “further contribute to the marginalization of people who face discrimination based on age, gender, sexual orientation, disability, social or economic status.” Canada again reiterated its support for the widespread inclusion of civil society, NGOs, and youth throughout the preparatory process and at the World Conference itself. It also reiterated its support for combating “hate propaganda, hate on the Internet, and crimes that are motivated by hatred” while noting that “one challenge that faces this conference is the identification of measures that lead to the eradication of these manifestations of racism, while simultaneously respecting free speech and freedom of association.” Canada expressed support for educational

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<sup>134</sup> Government of Canada, “Regional Preparatory Conference for the Americas, Statement on Behalf of the Canadian Delegation by Marie Gervais-Vidricaire, Deputy Permanent Representative, Permanent Mission of Canada to the United Nations (Geneva) to the Chair of the Negotiation Committee, Santiago, Chile.” (December 4, 2000).

measures and public awareness campaigns and that “these types of forward-looking initiatives and strategies should be included in the plan of action as examples of concrete measurable outcomes. Last, Canada stated that the World Conference should work to strengthen existing international frameworks for combating racism, such as the International Convention on the Elimination of All Forms of Racial Discrimination (CERD).

In addition, Hedy Fry spoke at the Regional Conference of the Americas on its opening day to discuss Canada’s domestic record.<sup>135</sup> Fry acknowledged that “systemic racism, xenophobia and discrimination still exist in Canada, sometimes subtly but often overtly and with hate.” Canada’s “history is not always one of which we are proud. It has been marred by the colonisation [sic] of indigenous peoples who still bear the scars of assimilation today—currently manifested by poverty, disadvantage, substance abuse and poor health status—Indigenous women being the most disadvantaged.” Fry further acknowledged that “over the years, subsequent groups of migrants of Asian, African and European origin faced discrimination and denial of equal rights.” She made similar remarks speaking on the second day of the conference, noting that Canada is:

not proud of the way that Italians, Ukrainians and Germans were treated in Canada during the war. Similarly, the stories of religious intolerance against the Jews when they came to Canadian shores prior to the Second World War, and were turned away and died in camps in Germany, is a part of our history of which we are ashamed. Historically, as well, Asians in Canada have met with discrimination, notably the Japanese, the Chinese and the Sikhs.<sup>136</sup>

Given the usual atmosphere of multilateral gatherings that address human rights, in which most countries use the opportunity to cynically assert their unimpeachable domestic

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<sup>135</sup> Government of Canada, “Secretary of State (Multiculturalism) opening remarks at the Regional Meeting of the Americas,” (December 5, 2000).

<sup>136</sup> Government of Canada, “Canada’s Intervention – Plenary Discussion of WCAR Themes I & II,” (December 6, 2000).

record while criticizing the domestic record of their geopolitical foes, Canada deserves some credit for the clarity with which it discussed the problem of racism in Canada. Even among the various Canadian NGOs and Aboriginal organizations that worked to eradicate racism in Canada and oftentimes found themselves at odds with the government's policy agenda, there was an overall sense among many that Hedy Fry, as an individual representative of government, appeared to approach the World Conference preparatory process with a genuine willingness to confront the issues head on. Of course, many of these same NGOs and Aboriginal organizations also noted that Fry's personal commitment to the cause was not always reflected in the government's official stance on the issues. In particular, Canada's positions on key aspects of the debate regarding the rights of indigenous peoples and people of African descent tended to reflect a careful consideration of the national interest and a desire to protect state sovereignty rather than a more empathetic concern for the plight of marginalized groups in Canada.

#### **4.2.1 - Indigenous peoples**

Before discussing how the topic of indigenous peoples was addressed at the Regional Conference of the Americas, it is useful to briefly review the historical and political situation of indigenous peoples in the Americas as well as international and multilateral efforts at the United Nations to address the rights of indigenous peoples. In general, the key debates on indigenous peoples that occurred throughout the World Conference process should be understood in the context of the larger debate on these issues.

According to a 2006 study, estimates for the number of indigenous people living

in Central and South America range from between 28 to 43 million people. Indigenous peoples constitute 17 percent of the population in Peru, 20 percent of the population in Belize, 42 percent of the population in Guatemala and 62 percent of the population in Bolivia.<sup>137</sup> In the United States, census data from the year 2000 showed that 4.1 million people identified as American Indian and Alaska Native while 874,000 identified as Native Hawaiian and Other Pacific Islander.<sup>138</sup> Data from the 2001 Canadian census showed that about 1.3 million people reported having “at least some Aboriginal ancestry” while 976,305 persons identified as belonging to one or more of the First Nations, Métis or Inuit peoples.<sup>139</sup> Overall, indigenous peoples constitute between 3.5 to 5 percent of the total population of the countries in the Americas.

Although the current living conditions of indigenous peoples vary greatly both between and within these countries, indigenous peoples in the Americas face significant barriers to the full enjoyment of their basic human rights. For centuries, countries in the Americas adopted an assimilationist approach to indigenous peoples, forcibly and sometimes violently dispossessing them of their land and resources, dislocating families and communities, and generally attempting to demolish indigenous identities, languages and cultural ways of life. As a result, indigenous peoples throughout countries in the Americas are more likely than the general population to live in poverty, receive

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<sup>137</sup> Heather Marie Layton and Harry Anthony Patrinos, “Estimating the Number of Indigenous Peoples in Latin America,” in *Indigenous Peoples, Poverty and Human Development in Latin America 1994-2004*, eds. Gillette Hall and Harry Anthony Patrinos, (New York: Palgrave Macmillan, 2006), 25-39.

<sup>138</sup> Stella U. Ogunwole, “The American Indian and Alaska Native Population: 2000,” *United States Census 2000*. (Washington DC: United States Census Bureau, February 2002); Elizabeth M. Grieco, “The Native Hawaiian and Other Pacific Islander Population: 2000,” *United States Census 2000*. (Washington DC: United States Census Bureau, December 2001).

<sup>139</sup> Statistics Canada, “2001 Census: Analysis Series. Aboriginal peoples of Canada: A Demographic Profile,” (Ottawa: Statistics Canada, 2003).

inadequate access to vital health care services, have shorter life expectancies and higher infant mortality rates, receive less formal education, and experience wage discrimination in the workplace.<sup>140</sup> A UN press kit released in advance of the World Conference against Racism situated these problems in a larger historical context:<sup>141</sup>

The world's indigenous peoples—or “first peoples”—do not share the same story of colonization. In the New World, white European colonizers arrived and settled suddenly, with drastic results. The indigenous peoples were pushed aside and marginalized by the dominant descendants of Europeans. Some peoples have disappeared, or nearly so. Modern estimates place the 15th century, or pre-Columbus, population of North America at 10 to 12 million. By the 1890s, it had been reduced to approximately 300,000. In parts of Latin America, the results were similar; in others, there are still majority indigenous populations. But even in those areas, indigenous people are often at a disadvantage. Indigenous peoples in Latin America still face the same obstacles as indigenous peoples elsewhere—primarily, separation from their lands. And that separation is usually based on distinctions originally deriving from race.

As a matter of foreign policy, states have been reluctant to recognize the rights of indigenous peoples.<sup>142</sup> The issue was not a priority for states at the time of the UN's founding and only seriously emerged on the UN agenda during the 1970s. In the past half century, discussions about indigenous peoples at the international level have occurred in several arenas, including the International Labour Organization (ILO), the General Assembly and the Working Group on Indigenous Peoples (WGIP). At the time of the World Conference against Racism, ongoing negotiations were occurring at the UN over the draft text of the Declaration on the Rights of Indigenous Peoples. These negotiations, and the general work of the UN on the issue of indigenous peoples, have consistently exposed the tensions between the demands of indigenous peoples for greater rights to shape their own political, economic and cultural affairs and the desire of states to retain

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<sup>140</sup> Layton and Patrinos, “Estimating the Number of Indigenous Peoples in Latin America”; James S. Frideres and Renè Gadacz, *Aboriginal Peoples in Canada*. (Don Mills: Pearson Education Canada, 2009).

<sup>141</sup> United Nations, “ ‘Doctrines of Dispossession’ – Racism against Indigenous Peoples,” accessed April 21, 2014, <http://www.un.org/WCAR/e-kit/indigenous.htm>.

<sup>142</sup> Elsa Stamatopoulou, “Indigenous Peoples and the United Nations: Human Rights as a Developing Dynamic,” *Human Rights Quarterly* 16, 1 (1994): 58-81.

sovereign control over these processes.

In 1957, the International Labour Organization initiated one of the first efforts to address the issue of indigenous rights at the international level when states adopted the *Indigenous and Tribal Populations Convention*. As the “first international legal treaty on this subject,”<sup>143</sup> the convention addressed the rights of indigenous peoples on issues involving land rights and ownership, employment, social security, health, education and means of communication, among others. However, the convention addressed these issues in the context of promoting an assimilationist attitude toward indigenous peoples. As a recent ILO document explains, when the 1957 convention was adopted, “indigenous and tribal peoples were seen as ‘backwards’ and temporary societies. The belief at the time was that, for them to survive, they had to be brought into the national mainstream, and that this should be done through integration and assimilation.”<sup>144</sup>

A more empathetic attempt to address indigenous rights at the international level occurred in the early 1970s, when the UN initiated a “Study of the Problem of Discrimination Against Indigenous Populations.” Thirteen years in the making, the five-volume study was completed in 1986 and greatly helped to elevate the issue of indigenous peoples on the UN agenda and create a framework that allowed indigenous peoples themselves to participate in international negotiations involving their rights. As Stamapoulou notes, the “drafting process of this study was a key to the development of relations between the United Nations and indigenous peoples. It contributed significantly to the assertion by indigenous peoples of their own identities at the international level

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<sup>143</sup> International Labour Organization, *ILO Convention on Indigenous and Tribal Peoples, 1989 (No. 169): A Manual* (Geneva: International Labour Office, 2003), 10.

<sup>144</sup> Ibid.

under the flag of universal human rights. A major consideration was that the study also had to reflect the views and aspirations of indigenous peoples about their own fate.”<sup>145</sup>

As a result of the growing prominence of indigenous issues on the United Nations agenda, the UN Economic and Social Council created a Working Group on Indigenous Populations (WGIP) in 1982. A subsidiary body of the Sub-Commission on the Promotion and Protection of Human Rights, the WGIP was composed of five individual experts who were members of the Sub-Commission.<sup>146</sup> The mandate of the WGIP was to “review developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous peoples” and “to give attention to the evolution of international standards concerning indigenous rights.” Between 1985 and 1993, the WGIP produced a draft of the UN Declaration on the Rights of Indigenous Peoples. In 1994, a completed draft declaration was submitted to the sub-Commission and over the next dozen years, states negotiated the content of the declaration before adopting it at the UN Human Rights Council in 2006 and at the General Assembly in 2007.

Meanwhile, during the 1980s, there was a growing recognition that the 1957 ILO convention reflected an outdated and problematic approach to indigenous issues. Thus, in 1989, the ILO revised the convention and, among other things, changed the name of the document to the *Indigenous and Tribal Peoples Convention*. The recognition at the international level of indigenous peoples as “peoples” rather than “populations” was a significant distinction that helped to enhance the rights of indigenous peoples.

Throughout all of the discussions at the international level about indigenous peoples, one

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<sup>145</sup> Stamatopoulou, “Indigenous Peoples and the United Nations,” 67.

<sup>146</sup> The Sub-Commission was itself a subsidiary organ of the UN Commission on Human Rights. Prior to 1999, it was known as the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

of the central issues concerned the applicability of the right to self-determination, as international law grants the right to self-determination specifically to “peoples” but not to “populations.” For example, the UN Charter refers to “the principle of equal rights and self-determination of peoples” while both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) affirm that “all peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.” However, there is no clear legal definition of what constitutes a “peoples” under international law, and many states have been reluctant to recognize indigenous peoples as such due to concerns that it could encourage secessionist movements. Indeed, these concerns led states to add a significant qualifier to the use of the term indigenous peoples in the revised 1989 ILO convention, which reads that “the use of the term peoples in this Convention shall not be construed as having any implications as regards the rights which may attach to the term under international law.” Thus, while the change in terminology was a sign of progress in the efforts of indigenous peoples to have states recognize their rights under international law, the decision to limit the meaning of the peoples underscored the general hesitancy of states to move forward in this regard.

Given the history of racism against indigenous peoples at both the domestic and international level, it was appropriate that the issue occupied a major place on the agenda of the Regional Conference of the Americas. The Regional Conference of the Americas declaration and plan of action adopted several paragraphs addressing racism and racial discrimination against indigenous peoples. Most of these paragraphs were adopted by



consensus. For example, paragraph 19 of the declaration:

recognize[d] the value and diversity of the cultures and the heritage of indigenous peoples, whose singular contribution to the development and cultural pluralism of the societies of the region and full participation in all aspects of society, in particular on issues that are of concern to them, are fundamental for political and social stability, and for the development of the States in which they live.<sup>147</sup>

Paragraph 20 of the declaration “recognize[d] the special relationship that indigenous peoples have with the land as the basis for their physical and cultural existence.”

Paragraph 22 “recognize[d] that the indigenous peoples of the Americas have been victims of discrimination for centuries and affirm that they are free and equal in dignity and rights and should not suffer any discrimination whatsoever; and particularly not on the basis of their indigenous origin and identity.” Paragraph 23 discussed some of the efforts being taken to rectify these problems, noting that:

in order for indigenous peoples freely to express their own identity and exercise their rights, they should be free from all forms of discrimination, which necessarily entails respect for their human rights and fundamental freedoms. Efforts are now being made to secure universal recognition for those rights in the Declaration on the Rights of Indigenous Peoples, including the following: to call themselves by their own names; to participate freely and on an equal footing in a country’s political, economic, social and cultural development; to maintain their own forms of organization, lifestyles, cultures and traditions; to maintain and use their own languages; to maintain their own economic structures in the areas where they live; to take part in the development of their education systems and programmes to manage their lands and natural resources, including hunting and fishing rights; and to have access to justice on a basis of equality.<sup>148</sup>

Probably the major reason why states were able to reach a consensus on such language addressing indigenous peoples is that they continued the practice of situating indigenous rights within the context of state sovereignty. Thus, paragraph 24 of the declaration recognized “all of the rights of the indigenous peoples in conformity with the principles of the sovereignty and territorial integrity of States.” In addition, at the request of the United States, the declaration included a qualification regarding the use of the term

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<sup>147</sup> World Conference against Racism, “Report of the Regional Conference of the Americas.” A/CONF.189/PC.2/7.

<sup>148</sup> Ibid.

indigenous peoples, borrowing language almost verbatim from the 1989 ILO convention. Thus, paragraph 3 of the declaration stated that “the use of the term ‘peoples’ in this document cannot be construed as having any implications as to the rights which attach to the term under international law. The rights associated with the term ‘indigenous peoples’ have a context-specific meaning that is appropriately determined in the multilateral negotiations in the texts of declarations that specifically deal with such rights.”

As was the case during previous international negotiations on this issue, indigenous peoples in Canada and abroad objected strongly to this limitation of their rights. For some, the denial of their status as peoples under international law was nothing short of “an act of racism at [the] international level, a violation of the principles of equality and non-discrimination.”<sup>149</sup> For others, the text provided an opportunity for further negotiation. Tony Belcourt, President of Métis Nation of Ontario, stated that “the compromise text in the Draft remains unsatisfactory to Indigenous Peoples, however it is an opening that we welcome. We note that Canada has reserved its position on the text and we intend to pursue amendments which would remove the qualifications on the use of the term Indigenous Peoples.”<sup>150</sup>

In order to understand Canada’s position on indigenous peoples at the Regional Conference of the Americas, and subsequently throughout the World Conference process, it is useful to briefly review the history concerning Canadian foreign policy and indigenous peoples. In the two decades prior to the World Conference against Racism,

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<sup>149</sup> Suhas Chakma, “Setting the Record Straight,” in *Racism against Indigenous Peoples*, eds. Suhas Chakma and Marianne Jensen. (Copenhagen: The International Work Group for Indigenous Affairs, 2001), 10.

<sup>150</sup> Canada News Wire, “Métis Nation plays pivotal role at UN Conference of Americas on Racism progress made on rights of Indigenous Peoples.” *Canada News Wire*, December 11, 2000.

Canada had adopted a contradictory position on the question of whether indigenous peoples constitute a “peoples.” At the domestic level, Canada was willing to recognize Aboriginal peoples as peoples and did so most notably in section 25 of the Charter of Rights and Freedoms, which refers explicitly to “Aboriginal peoples.” But at the international level, Canada frequently opposed efforts to identify indigenous peoples as peoples under international law.<sup>151</sup> During the 1980s, Canada explicitly stated to the Working Group on Indigenous Populations that the Canadian Charter’s reference to Aboriginal peoples “should *not* be interpreted as supportive of the notion that Canada’s aboriginal groups are ‘peoples’ in the sense of having the right to self-determination under international law.”<sup>152</sup> Canada maintained this position during the negotiations to revise the ILO convention, expressing “strong reservations” about the use of the term peoples in the convention. As Barsh noted, “the representative of the Canadian government reiterated that any use of the term ‘peoples’ would imply the right to self-determination, and therefore prove unacceptable.”<sup>153</sup> In 1993, Canada again opposed efforts to use the term indigenous peoples in the negotiations at the UN World Conference on Human Rights. While Canada has not offered a clear rationale for its contradictory position, scholars and Aboriginal organizations alike have suggested that a major motivating factor for Canada is a concern of how the issue might impact the question of Quebec secession. As Barsh concludes, “federalists may well have feared UN endorsement of Aboriginal peoples’ right to self-determination as a precedent for

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<sup>151</sup> Grand Council of the Crees, “Crees and the Draft Declaration on the Rights of Indigenous Peoples,” (Undated), accessed April 21, 2014, <http://www.gcc.ca/archive/article.php?id=62>.

<sup>152</sup> As quoted in Russel Lawrence Barsh, “The Aboriginal Issue in Canadian Foreign Policy, 1984-1994,” *International Journal of Canadian Studies* 12 (1995): 115.

<sup>153</sup> *Ibid.*, 117.

Quebec.”<sup>154</sup>

Despite Canada’s consistent opposition to this issue during the 1980s and mid-1990s, Canada’s position began to evolve during the late-1990s in the course of negotiations over the UN Declaration on the Rights of Indigenous Peoples. Following the WGIP’s completion of the Draft Declaration on the Rights of Indigenous Peoples, the UN created a Working Group on the Draft Declaration to provide states a forum to negotiate the text and consider it for adoption. Records from the Indigenous Peoples’ Center for Documentation, Research and Information (doCip) indicate that during the negotiations at the Working Group, Canada began to discuss an expanded understanding of the right to self-determination under international law. According to the summary records produced by the doCip, at the third session of the Working Group, held in 1997:

Canada underlined the fundamental role of SD [self-determination] in the protection of human rights of all peoples. As a State party to the UN Charter and to the Covenants on Human Rights, Canada considers itself legally and morally committed to the observance of this right. It applies equally to all collectivities, indigenous and non-indigenous, which qualify as “peoples” under international law. The main issue raised by the Draft is whether the right applies to indigenous “peoples” living within existing democratic States. The understanding of the right of SD is expanding to include the concept of an internal right to groups living within existing States. The right to SD intends to promote harmonious arrangements for self-government within sovereign and independent States. Any prescriptive solutions must be avoided in order to allow the right of SD to be implemented flexibly through negotiations between States and IPs [indigenous peoples].<sup>155</sup>

Similarly, doCip summary records of the sixth session, held in 2001, note that:

Canada pointed out that the right of SD has evolved and is now seen by many as a right which can continue to be enjoyed in a democracy in which citizens participate in the political system and have a say in the political processes that affect them. It accepts the right to SD, involving negotiations between States and IPs to determine IP’s political status and means of pursuing their economic, social and cultural development, as arrangements for self-government.<sup>156</sup>

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<sup>154</sup> Ibid, 129.

<sup>155</sup> Indigenous Peoples’ Center for Documentation, Research and Information (doCip), “Update No 21/22,” (November 1997/February 1998), accessed April 21, 2014 <http://www.docip.org/Online-Documentation.32.0.html>.

<sup>156</sup> Indigenous Peoples’ Center for Documentation, Research and Information (doCip), “Update No 37,” (January/March 2001), accessed April 21 2014 <http://www.docip.org/Online-Documentation.32.0.html>.

Thus, Canada began to consider that the right to self-determination can be granted to peoples living within existing states and does not necessarily require that all peoples be granted their own sovereign state. In adopting this refined position, Canada appeared to relent on one of its principal concerns with the Draft Declaration and demonstrate a willingness to move toward a greater recognition of the rights of Aboriginal peoples in Canada. Once Canada began to consider the rights of self-determination within this new light, it was more willing to accept that indigenous peoples constituted peoples under international law. Nonetheless, Canada continued to argue at the Working Group on the Draft Declaration that the fulfillment of the right of Aboriginal peoples in Canada to self-determination could only come about as a result of negotiations between Aboriginal peoples and the government of Canada, and hence, that the government would retain considerable control over the process.

These developments during the late-1990s set the context for Canada's position at the Regional Conference of the Americas. The key DFAIT officials involved in the preparatory process for the World Conference against Racism maintain that Canada's position on the status of indigenous peoples under international law did evolve during the negotiations in the Working Group on the Draft Declaration, and that by the time of the Regional Conference of the Americas, Canada was prepared to recognize that indigenous peoples constitute peoples under international law. As one DFAIT official who attended the Regional Conference of the Americas explained:

at that time, we had a position to support the use of the term peoples with an "s", and that was something that we had developed in the course of the negotiations on the draft Declaration on the Rights of Indigenous Peoples. But the US, at that time ... couldn't accept the [term] peoples, they couldn't accept the "s." That's why they put the qualifier. And there may have been one or two other countries that also had similar issues with that term,

but we didn't have any issues with it.<sup>157</sup>

According to Hedy Fry, Canada not only accepted the unqualified use of the term indigenous peoples, but was one of the states that took the lead on the issue. As Fry stated, Canada “brought forward a resolution in Santiago ... which basically said that indigenous peoples are peoples in their own right and not a population demographic, and that therefore they have rights to self-determination, self-government and to lands that had been taken away from them.”<sup>158</sup> Aboriginal organizations in Canada welcomed Canada's new position. A statement issued by the Grand Council of the Crees, “acknowledg[ed] Canada's official position in support of the applicability without discrimination of international human rights law to indigenous peoples, including the right of self-determination.”<sup>159</sup>

At the same time, if Canada recognized the unqualified definition of indigenous peoples at the Regional Conference of the Americas, it did not appear to make this policy clear on the official UN record. None of Canada's prepared remarks at the Chile meeting endorsed the view that indigenous peoples constitute peoples under international law. Nor did Canada's statement of reservation issued on the final day of the Regional Conference of the Americas refer to the controversial qualifying paragraph and clarify Canada's opposition to it. Whatever efforts Canada may have exerted behind the scenes to lobby the United States and other countries, the public records from the Regional Conference of the Americas suggest that Canada was ultimately willing to go along with the text as

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<sup>157</sup> Personal interview with Deborah Chatsis, 1st Secretary, Permanent Mission of Canada to the UN, Geneva. (September 12, 2012).

<sup>158</sup> Personal interview with Hedy Fry, Secretary of State (Multiculturalism)(Status of Women). (February 17, 2012).

<sup>159</sup> Grand Council of the Crees, “ ‘Pushed to the Edge of Extinction’ 24 Page Brief Released Today,” (August 30, 2001), accessed April 21, 2014, <http://www.gcc.ca/archive/article.php?id=66>.

adopted in Chile with regard to the rights of indigenous peoples and their status under international law.

#### **4.2.2 - People of African descent, the transatlantic slave trade, colonialism and reparations**

As was the case at the First Preparatory Committee meeting, a major item on the agenda of the Regional Conference of the Americas was the interrelated set of issues concerning the transatlantic slave trade, colonialism and reparations. During the negotiations of the Regional Conference of the Americas declaration and programme of action, states were able to reach consensus on several paragraphs acknowledging the history in the Americas of racism and racial discrimination against people of African descent. However, on the more contentious issue of reparations, debate was drawn along regional lines as the United States and Canada opposed efforts to use the World Conference against Racism as a venue to create new mechanisms for regional and international reparations while countries of Latin America and the Caribbean (GRULAC) pushed for language designed to lead to the establishment of a reparations process. In the end, Canada and the United States each issued a few statements and comments indicating that they would not support certain language used to describe international law, the legal duties of states, and the establishment of new regional and international institutions to address reparations.

In general, all countries were able to accept language that discussed historical and present-day racism in broad terms, and most paragraphs in the declaration and plan of action addressing people of African descent were agreed upon by consensus. For

example, paragraph 28 of the declaration recognized:

that the legacy of slavery has contributed to perpetuating racism, racial discrimination, xenophobia and related intolerance against people of African descent throughout the region. Also note the disastrous consequences of slavery, which are at the root of the situations of profound social and economic inequality which generally victimize people of African descent in the Americas.<sup>160</sup>

Paragraph 31 of the declaration similarly recognized:

that the racism and racial discrimination that people of African descent have historically suffered throughout the Americas is at the root of the situation of marginalization, poverty and exclusion that affects the majority of them in many countries of the continent and that, despite the many efforts made, this situation persists, in varying degrees.<sup>161</sup>

Paragraph 103 of the plan of action “urge[s] States to take measures to alleviate inequalities that still persist because of the shameful legacy of slavery” while paragraph 104 “urge[s] States to facilitate the participation of people of African descent in all political, economic, social and cultural aspects of society and in the advancement and economic development of their countries, and to promote a greater knowledge of and respect for their heritage and culture.” These paragraphs can be seen as representative examples of the type of language that was agreeable to all states.

By contrast, paragraphs in the declaration that appeared to challenge state sovereignty more concretely, or call upon states to introduce new measures to eliminate racism and provide reparations for people of African descent, were met with opposition from Canada and the United States. As expected, the objections raised by Canada and the United States were similar to the objections they raised at the First Preparatory Committee meeting regarding the issue of reparations for slavery and the transatlantic slave trade.

Canada had objections to three paragraphs in the declaration and plan of action

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<sup>160</sup> World Conference against Racism, Report of the Regional Conference of the Americas,” A/CONF.189/PC.2/7.

<sup>161</sup> Ibid.



that addressed people of African descent.<sup>162</sup> The first such paragraph was paragraph 4 in the declaration, which “repudiate[d] the brutal crimes and injustices that were committed against indigenous peoples and Africans and their descendants who were subjected to slavery, the transatlantic slave trade and other forms of servitude that today could constitute crimes against humanity.” Canada opposed this language on the basis that “it is inappropriate to apply a modern concept of international law to acts which took place centuries ago.” The second paragraph to which Canada had objections was paragraph 27 of the declaration, which:

recognize[d] that people of African descent have for centuries been victims of racism, racial discrimination and enslavement and of the denial by history of many of their rights. Assert that they should be treated with fairness and respect for their dignity and should not suffer discrimination of any kind based on origin, culture, skin colour or social condition. Recognition should therefore be given to their rights to culture and their own identity; to participate freely and on equal conditions in political, social, economic and cultural life; to development in the context of their own aspirations and customs; to keep, maintain and foster their own forms of organization, their mode of life, culture, traditions and religious expressions; to maintain and use their own language; to the protection of their traditional knowledge and their cultural and artistic heritage; to their ancestrally inhabited land; to the use, enjoyment and conservation of the natural renewable resources of their habitat and to active participation in the design, implantation and development of educational systems and programmes, including those of a specific and characteristic nature.<sup>163</sup>

While Canada stated that it found most of the paragraph acceptable, it “could not support some of the language ... particularly with respect to the question of ancestral lands and natural resources.” The third paragraph was paragraph 70 of the declaration, which:

acknowledge[d] that the enslavement and other forms of servitude of Africans and their descendants and of the indigenous peoples of the Americas, as well as the slave trade, were morally reprehensible, in some cases constituted crimes under domestic law and, if they occurred today, would constitute crimes under international law. Acknowledge that these practices have resulted in substantial and lasting economic, political and cultural damage to these peoples and that justice now requires that substantial national and international efforts be made to repair such damage. Such reparation should be in the form of policies, programmes and measures to be adopted by the States which benefited materially from these practices, and designed to rectify the economic, cultural and political damage which

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<sup>162</sup> Ibid.

<sup>163</sup> Ibid.

has been inflicted on the affected communities and peoples.<sup>164</sup>

Canada asserted that “the paragraph does not properly reflect international law” and that “it is not clear from the current language what obligations and responsibilities arise out of the paragraph.”

As expected, some Canadian NGOs, particularly those representing African-Canadians, expressed strong disappointment with Canada’s opposition to the establishment of a reparations mechanism for the transatlantic slave trade. As was the case when the issue was raised six months earlier at the First Preparatory Committee meeting, Canada’s position against reparations was rooted firmly in the state’s understanding of the national interest to protect its sovereignty and its view that the language being used created expansive and undetermined legal and financial obligations. At any rate, the continued insistence of other states to raise the matter ensured that the issue of reparations would continue to remain a major issue on the agenda of the World Conference against Racism.

#### **4.2.3 – Other Issues**

In addition to the debates on indigenous peoples and people of African descent, the Regional Conference of the Americas also addressed several other important topics. Language addressing issues such as poverty, globalization, Mestizo populations, migrants, persons of Asian descent, women, Jews and Arabs was adopted by consensus and without any of the political tension that surrounded the debates on the rights of indigenous peoples under international law and the issue of reparations for the

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<sup>164</sup> Ibid.

transatlantic slave trade. While it is important for an analysis of the World Conference against Racism to address the difficulties and contentious lines of debate that occurred throughout the process, it is also important to highlight the many areas on which there was strong consensus. For example, a paragraph on the intersection of poverty and racism read:

Note with great concern that the descendants of racial and ethnic groups which were the victims of past acts of racial discrimination often find themselves amongst the poorest segments of the population in the States of the region; and recognize the close correlation between racism, racial discrimination, xenophobia and related intolerance and extreme poverty.<sup>165</sup>

A paragraph on the impact of globalization acknowledged both the negative and positive side of this transformative phenomenon:

Express our determination to prevent and mitigate the negative effects of globalization. These effects may contribute to, inter alia, cultural homogenization, economic inequality within and between States which may occur along racial lines, or may be based on the social and economic exclusion of peoples, communities and groups, especially those who continue to endure the legacy of slavery and colonialism. Also express our determination to maximize the benefits of globalization through strengthening cooperation to create increased opportunities for trade, economic growth and sustainable development, global communications through the use of new technologies and increased inter-cultural exchange through the preservation and promotion of cultural diversity, which may contribute to the eradication of racism, racial discrimination, xenophobia and related intolerance.<sup>166</sup>

Paragraphs discussing Mestizo populations “recognize[d] the valuable contribution of the mestizo population” and “condemn[ed] the discrimination of which mestizos are in many cases the victims because of their different ethnic and racial origins or their different varieties of skin colour.”

Regarding migrants, states agreed on language that “recognize[d] the positive economic and cultural contributions made by migration to both countries of origin and of destination” and “reaffirm[ed] the responsibility of Government to safeguard and protect

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<sup>165</sup> Ibid.

<sup>166</sup> Ibid.

the human rights of migrants living in their territory and under their jurisdiction against illegal acts by their agents or by individuals or groups motivated by racism, xenophobia or related intolerance.” The text also “express[ed] our concern and indignation that, despite the measure taken by the international community, racism, racial discrimination, xenophobia and related intolerance against migrants are on the increase, as are stereotypes usually applied to them.” In addition, the plan of action “invite[d] States to consider signing, ratifying or acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990).” A paragraph on persons of Asian descent noted:

Recognize the history of persons of Asian descent in the Americas as one often characterized by systemic and overt discrimination that violated their human rights, a history that manifests itself in ongoing racism, racial discrimination, xenophobia and related intolerance. Despite the difficulties and barriers, people of Asian descent have contributed and continue to contribute significantly to the economic, social, political, scientific and cultural life of the hemisphere.<sup>167</sup>

Regarding women, the declaration noted that “racism, racial discrimination and xenophobia reveal themselves in a differentiated manner for women, causing their living conditions to deteriorate, generating multiple forms of violence, and limiting or denying them the benefit and the exercise of their human rights” while the plan of action:

urge[d] States to incorporate a gender-perspective into all programme of action against racism, racial discrimination, xenophobia and related intolerance and to consider the burden of discrimination that particularly falls on indigenous women, women of African descent, women migrants and women from other disadvantaged groups, ensuring their access to the resources of production on an equal footing with men, as means of promoting their participation in the economic and productive development of their communities.<sup>168</sup>

Last, the declaration addressed the problem of racism targeting Jews and Arabs.

Considering that the politics of the Middle East would come to be a dominating and divisive issue on the agenda of the World Conference, it is notable that the discussion at

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<sup>167</sup> Ibid.

<sup>168</sup> Ibid.

the Regional Conference of the Americas reached consensus on one paragraph addressing Jews and one addressing Arabs. One paragraph “confirm[ed] with deep concern the increase in anti-Semitism and hostile acts against Jews in some countries in the region and in other parts of the world, as well as the emergence of radical and violent movements based on racism and discriminatory ideas concerning the Jewish community” while a separate paragraph “also confirm[ed] with deep concern the existence of Islamophobia and hostile acts against Arabs, which are evidenced in some countries in the region and in other parts of the world.”

In sum, the Regional Conference of the Americas was an important part of both Canada’s and the region’s preparations for the World Conference against Racism. The declaration and plan of action adopted at the conference contained many proposals that helped to feed into what would eventually become the Durban Declaration and Programme of Action. At times, however, the regional conference was a difficult process. Geopolitical differences between the United States and Canada, on the one hand, and states in Latin America and the Caribbean, on the other, played out on more than one occasion, and ultimately prevented consensus on key issues concerning indigenous peoples and people of African descent. The dissenting views of the United States and Canada proved to be not only a source of tension between states, but also between Canada and the various Canadian NGOs and Aboriginal organizations in attendance. To many Canadian civil society members in attendance, Canada’s dissenting views served as an indication of the limits of their influence in shaping the government’s policy positions.

### 4.3 - Other Regional Preparatory Meetings

In addition to the Regional Conference of the Americas, other regional conferences were held in Europe, Africa and Asia. Although Canada did not participate in the negotiations at these events, it did hold observer status at the meetings in Europe and Asia. Moreover, Canada closely followed the developments at each meeting as they greatly impacted the content of the World Conference agenda. Like the Regional Conference of the Americas, each of the other regional meetings addressed the issues that states deemed most important to their respective region. Taken together, the four regional conferences provided states with important opportunities to help shape the agenda of the World Conference, but also served to draw attention to the geopolitical divisions that existed regarding the most contentious issues. It is therefore useful to briefly review key developments at each of the three regional meetings in order to contextualize the debates that occurred throughout the spring and summer of 2001 and at the World Conference itself.

The European Conference against Racism was organized by the Council of Europe and held in Strasbourg, France, from October 11 to 13, 2000.<sup>169</sup> The final document adopted at the conference expressed alarm at “the continued and violent occurrence of racism, racial discrimination, xenophobia, anti-Semitism and related intolerance, including contemporary forms of slavery, in Europe and in other regions of the world” and the fact that “such occurrences target, notably on grounds related to language, religion or national or ethnic origin, persons such as migrants, asylum-seekers, refugees, displaced persons, non-nationals, indigenous peoples; or on grounds related to

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<sup>169</sup> World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Final Documents of the European Conference against Racism, Strasbourg, France, 11-13 October 2000. A/CONF.189/PC.2/6.

belonging to minorities, persons such as Roma/Gypsies and Travellers.” The document further discussed a variety of legal and political measures to be taken to combat racism and racial discrimination in Europe. However, on the issue of reparations, the document reflected the position adopted by European states at the First Preparatory Committee Meeting in May 2000. Thus, the only reference to the slave trade and colonialism was a single sentence noting that the “suffering caused by slavery or which arose from colonialism must be remembered.” The omission of any reference to international remedies or reparations was a clear indication that European states did not wish to discuss these issues at the World Conference.

The Regional Conference for Africa was held in Dakar, Senegal, from January 22 to 24, 2001.<sup>170</sup> African states adopted both a declaration and programme of action that addressed various issues of concern for states in the region. Understandably, they placed significant focus on the slave trade and colonialism. The declaration “recall[ed] the historical fact that among the most hideous manifestation of racial discrimination the African continent and Diaspora have suffered, namely the slave trade, all forms of exploitation, colonialism and apartheid, were essentially motivated by economic objectives and competition between colonial Powers for strategic territorial gains, appropriation, and control over and pillage of natural and cultural resources.” The declaration also “affirm[ed] that the slave trade, particularly of Africans, is a unique tragedy in the history of humanity” and a “crime against humanity which is unparalleled.” In the programme of action, African states called for the creation of an “International Compensation Scheme” that “should be set up for victims of the slave

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<sup>170</sup> World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Report of the Regional Conference for Africa, Dakar, 22-24 January 2001. A/CONF.189/PC.2/8.

trade, as well as victims of any other transnational racist policies and acts, in addition to the national funds or any equivalent national mechanisms aimed at fulfilling the right to compensation.” African states also called for the creation of a “Development Reparation Fund ... to provide resources for the development process in countries affected by colonialism.” The programme of action indicated that “on a collective basis, such reparation should be in the form of enhanced policies, programmes and measures to be adopted by States which benefit materially from these practices in order to rectify, through affirmative action, the economic, cultural and political damage which has been inflicted on the affected communities and peoples in the full implementation of their right to development.” However, the declaration and programme of action did not refer to the existence of present-day slavery and slavery-like conditions throughout countries in Africa.

The Asia Preparatory Meeting was held in Tehran, Iran, from February 19-21, 2001.<sup>171</sup> Although the declaration and plan of action adopted at this meeting addressed several issues, it was most notable for its references to the Arab-Israeli conflict. The declaration:

affirm[ed] that a foreign occupation founded on settlements, its laws based on racial discrimination with the aim of continuing domination of the occupied territory, as well as its practices which consist of reinforcing a total military blockade, isolating towns, cities and villages under occupation from each other, totally contradict the purposes and principles of the Charter of the United Nations and constitute a serious violation of international human rights and humanitarian law, a new kind of apartheid, a crime against humanity, a form of genocide and a serious threat to international peace and security.<sup>172</sup>

The declaration also:

recall[ed] with deep regret the practices of racial discrimination against the Palestinians as

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<sup>171</sup> World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Report of the Asian Preparatory Meeting, Tehran, 19-21 February 2001. A/CONF.189/PC.2/9.

<sup>172</sup> Ibid.



well as other inhabitants of the Arab occupied territories which have an impact on all aspects of their daily existence such as to prevent the enjoyment of fundamental rights, express our deep concern about this situation and call for the cessation of all the practices of racial discrimination to which the Palestinians and the other inhabitants of the Arab territories occupied by Israel are subjected.<sup>173</sup>

Overall, the four regional preparatory conferences served to help states organize their positions in advance of the next round of international negotiation in Geneva, but also served to reinforce geopolitical divisions as states in each region highlighted the issues that mattered most to them while ignoring or downplaying any issues that they did not wish to address. When states subsequently met in March 2001 in the first plenary meeting following the completion of the four regional meetings, it became abundantly clear that states faced an uphill battle in their effort to reach consensus language addressing reparations and the Middle East.

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<sup>173</sup> Ibid.

## CHAPTER 5: THE DOMESTIC PREPARATIONS

Canada's domestic preparations for the World Conference began following the completion of the first Preparatory Committee meeting. Throughout the summer of 2000, Canadian Heritage set out to lay the groundwork for the domestic consultations. During this time, Hedy Fry and other officials from Canadian Heritage held preliminary discussions with members of Canadian civil society organizations to seek input on how the government should structure its upcoming consultation process. Additionally, the government established three key *ad hoc* institutions that would help guide Canada's preparations for the World Conference: The Canadian Secretariat for the World Conference against Racism, the Civil Society Advisory Committee and the Aboriginal Advisory Committee. The formal domestic consultation process began in September 2000 when the government held a series of regional consultations across Canada, which culminated in a national consultation in February 2001. Three more consultation meetings were held in the spring and summer of 2001—a northern consultation was held in March, an Aboriginal consultation took place in April, and a youth consultation was organized for July.

Although the domestic consultations provided a valuable forum for dialogue between the government and numerous civil society organizations, there was concern among many participants that the process provided them with only limited influence with regard to the government's policy positions at the World Conference against Racism. Aboriginal organizations, in particular, were among the strongest critics of the process and generally viewed it as an empty gesture on the part of the government. Although some other civil society groups were more satisfied with the process, it is nonetheless fair

to say that, on balance, the government approached key issues with a pre-determined agenda rooted in its view of the national interest, and little interest in incorporating the input of Canadian civil society.

### **5.1 - Roundtable with civil society on consultations process (May 15, 2000)**

The first leg of the Canadian domestic preparations for the World Conference against Racism occurred immediately following the first Preparatory Committee meeting in Geneva. On May 15, 2000, Canadian Heritage held a one-day roundtable meeting in Ottawa to begin an ongoing discussion between government and civil society about how to structure the government's formal consultation process. In deciding which civil society members to invite, Canadian Heritage sought out individuals with personal experience in the field of anti-racism work. Twenty individuals from civil society attended. Canadian Heritage established four objectives for the meeting, which were to:

- 1) discuss how best to engage civil society around the complex issue of race;
- 2) define sections of civil society who would make a meaningful contribution to the consultation process;
- 3) discuss a range of consultative models which will meet four basic principles of transparency, inclusiveness, accessibility and accountability; and
- 4) recommend options for the best model or models of consultation to be used in Canada.<sup>174</sup>

Considering that the meeting was only the first stage of the consultation process, it is fair to say that the meeting succeeded in achieving these objectives. Following introductory remarks by Judith A. LaRocque, the Associate Deputy Minister of Canadian Heritage, Hedy Fry delivered an address in which she discussed the politics of multiculturalism and highlighted the importance of youth involvement in the World

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<sup>174</sup> Department of Canadian Heritage, "United Nations World Conference against Racism Roundtable, Report on Meeting," (May 15, 2000).

Conference, while noting that racism remains a problem in Canada, particularly in the form of hate speech on the internet and elsewhere. Responding to concerns from some NGOs that Canada was late to begin its preparations for the World Conference, Fry said that the first Preparatory Committee meeting had only just concluded and that Canada's preparations were a priority for her. Following Fry's remarks, a DFAIT official provided an update about key developments at the first Preparatory Committee meeting as well as some relevant background information about the context in which the World Conference would take place. The DFAIT official noted that the two previous UN racism conferences ended in discord, but expressed optimism that the global political environment had since improved. She also discussed the role of NGO participation at the World Conference, explained the accreditation process, and mentioned that the government would be able to provide NGOs with some financial assistance to help cover the costs of attending the World Conference and related preparatory events.

Participants at the meeting then began the discussion about Canada's domestic consultation process. They first addressed the issue of who the stakeholders of the consultations were, and suggested that the process should involve a diverse set of individuals and groups, including immigrants, refugees, asylum seekers, women, human rights groups, churches, and individuals representing historically marginalized communities in Canada. Participants also suggested that the consultations should include elite groups, such as business councils, members of the legal and medical professions, and others who help shape employment policies and practices. In addition, it was suggested that the consultation process needed to recognize the unique situation of Aboriginals in Canada and discuss the issue of self-determination. More generally,

participants suggested that Canada needed to address the darker sides of its history, including, for example, the practice of slavery in pre-Confederation Canada. As one participant said, “on an international level, Canada could help by being honest about its own situation.”<sup>175</sup>

The meeting then discussed organizational and procedural issues related to the consultation process. Several recommendations for the government emerged from these discussions. Among them were that Canadian Heritage should issue a statement of values and ethical guidelines to shape the consultation process; establish a working committee composed of both government officials and civil society groups to organize the consultations; host a series of regional consultations that would feed into a subsequent national consultation; complete the consultations prior to the next UN preparatory meeting scheduled for January 2001 so that the results could be incorporated into Canada’s positions at the meeting; and grant Aboriginal peoples flexibility in determining the nature of their participation, including the possibility of creating a parallel process alongside the civil society consultations.

Hedy Fry and the Associate Deputy Minister concluded the meeting by announcing that Canadian Heritage planned to use the results of the discussion to produce a framework paper that would provide greater detail about the structure and goals of the domestic consultations, and that the paper would be released within two weeks. They also said Canadian Heritage would act on a recommendation from the meeting to prepare a “framework document that would include both research from academia and detail the experience of NGOs” as well as “contain an update in terms of the status of the implementation of the recommendations of relevant reports and commissions, and a

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<sup>175</sup> Ibid.

presentation of good practices and achievements.”<sup>176</sup>

On balance, the May 15 meeting resulted in a constructive dialogue between government and members of civil society. In the coming months, Canadian Heritage would implement many of the meeting’s recommendations regarding the stakeholders and organizational structure of the consultation process. In this sense, the government demonstrated a fair degree of openness and flexibility at least with respect to the process by which the domestic consultations would unfold.

## **5.2 - Civil society consultations framework paper**

About two weeks later, Canadian Heritage publicly released the framework paper on the civil society consultations. Whereas the May 15 roundtable meeting was attended by fewer than two dozen individuals, the framework paper was made widely available to all interested members of civil society. The paper provided civil society with information about the political processes that would shape Canada’s preparations for the World conference and explained the roles and responsibilities of DFAIT and Canadian Heritage in preparing Canada’s positions for the World Conference. The framework paper formally announced the government’s decision to host consultations with Canadian civil society, and said the consultations would discuss “both world and domestic pressures” in the struggle against racism in Canada and abroad. More specifically, Canadian Heritage stated that the domestic consultations would be designed to achieve three purposes:

- 1) Stimulate domestic discussion on the issues raised by the World Conference and ensure lasting benefits here in Canada.
- 2) Seek input into the development of the official positions and priorities which

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<sup>176</sup> Ibid.

- Canada will bring to the World Conference
- 3) Facilitate dialogue among civil society groups interested in the World Conference, while assisting in the development of independent positions in support of a strong NGO presence at the parallel Forum.<sup>177</sup>

The framework paper announced both a list of principles and a set of ethical guidelines that would underlie the consultation process. Canadian Heritage promised that the consultation process would be governed by the principles of transparency, accessibility, inclusiveness and accountability. Thus, the government pledged to communicate clearly with civil society about the goals of the consultations; mitigate against geographic and linguistic barriers to participation; invite a broad and diverse set of individuals and groups to participate; and ensure that participants were assigned a clear mandate and that information would flow effectively between government and civil society. In addition, Canadian Heritage promised that the consultative process would adhere to four ethical guidelines. Thus, Canada would “recognize the past” and work to provide an honest and accurate account of the political and historical context linked to the Canadian present; “inform and explain” to participants about UN processes to ensure that attendees of the World Conference had a realistic understanding of what the event could—and could not—achieve; “engage and co-operate” with civil society to seek consensus whenever possible and compromise where necessary; and “provide resources” to civil society in recognition of their need for financial and other support in order to effectively participate in the consultations.

The framework paper also indicated Canada’s plans to make “special commitments” to youth and Aboriginal peoples. The government pledged that youth would play an important role throughout the preparatory process and at the World

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<sup>177</sup> Department of Canadian Heritage, “World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance: Civil Society Consultations Framework Paper,” (May 2000).

Conference itself, and that youth would be included on the Canadian delegation to the World Conference. Further, the government accepted the advice it received from civil society and members of Aboriginal groups to establish a distinct consultation process for Aboriginal peoples. The consultation process would “allow Aboriginal peoples to decide how they want to reach their own members” and “accommodate the inclination among certain groups to be part of the general conversation from the very beginning, while retaining and exercising the ability to put issues on the agenda in their own right.” It would also “make room for First Nations, Métis and Inuit to decide at which point they want to join in the general discussion with members of civil society.”<sup>178</sup>

Last, the framework paper provided a rough timeline of how Canada’s domestic preparations were expected to unfold. Canadian Heritage planned to hold a roundtable meeting in July with representatives from ethno-cultural organizations to discuss important issues in advance of the consultations. The regional consultations were planned between August and November and would be followed by a national consultation in December. At the national consultation, the government would seek consensus on a discussion paper on Canada’s positions that would be used to guide Canada’s participation at the January 2001 inter-sessional working group meeting in Geneva.

As it turned out, this schedule did not come to fruition exactly as planned due to the government’s decision in October to dissolve the 36<sup>th</sup> Canadian Parliament and call a general election, which was held on November 27, 2000. Although the snap election did not disrupt Canada’s preparations as much as it could have—the Liberal Party of Canada retained its majority government and Hedy Fry won re-election in her riding—it did have a negative consequence on the process. Canada’s domestic preparations for the World

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<sup>178</sup> Ibid.



Conference effectively came to a halt during the five week campaign, which resulted in the national consultation being postponed until February 2001. The delay meant Canada would have to attend both the regional preparatory meeting of the Americas and the inter-sessional working group meeting in Geneva without having completed the domestic consultation process. This sequencing of events was a source of major frustration for many civil society groups involved in the domestic consultations, as they felt that their input was being marginalized by the government.

Overall, however, the framework paper provided civil society with valuable information and served as an important part of the government's larger effort to dialogue with civil society about Canada's preparations for the World Conference.

### **5.3 - Second roundtable with civil society on consultations process (July 5, 2000)**

On July 5, 2000, Canadian Heritage held its second roundtable meeting with civil society groups, this time with individuals representing national ethno-cultural organizations in Canada.<sup>179</sup> A few dozen participants attended. The main purpose of the meeting was to begin a more substantive discussion between government and civil society about Canada's domestic preparations for the World Conference in light of the five themes decided upon at the first Preparatory Committee meeting. The roundtable began in a similar fashion to the earlier meeting in May, and brief statements were made by the Associate Deputy Minister of Canadian Heritage, an official from DFAIT, the executive director of Canada's WCAR Secretariat, and Hedy Fry. The DFAIT official provided background information about the World Conference, summarized key

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<sup>179</sup> Department of Canadian Heritage, "United Nations World Conference Roundtable with National Umbrella Organizations, Report on Meeting," (July 5, 2000).

developments at the first Preparatory Committee meeting and the role played by DFAIT, and discussed DFAIT's relationship with Canadian NGOs. In her address, Hedy Fry suggested that the World Conference would provide Canada an opportunity to "look at our past history and practices, but also to look into the future and what we hope to achieve." She also discussed the creation of the Advisory Committees and reiterated the government's commitment to include youth and Aboriginal peoples throughout the World Conference process.

To begin the substantive discussions, civil society participants were asked to form five groups, each of which discussed one of the five themes of the World Conference and proposed suggestions for how Canada should address each theme. The group addressing the first theme—on the sources, causes, forms and contemporary manifestations of racism—suggested that Canada needed to acknowledge its past, such as the internment of Japanese Canadians during the Second World War and the treatment of Chinese Canadians during the construction of the Canadian Pacific Railway. The group also suggested that the government take leadership in promoting multicultural policies and work with labour and trade unions to promote a more inclusive workforce. The group addressing the second theme—identifying victims of racism—noted that victims in Canada include Aboriginal peoples, visible minorities, religious groups, and migrants. The group emphasized that victimization occurs throughout government policy and lack of access to decision-making as well as in the workforce and in the media.

The group addressing the third theme—measures of prevention, education and protection—discussed the need for inclusive education curricula in the school system, greater representation of diverse cultures and viewpoints in the media, increased

communication between different communities in Canada, and enhanced human rights legislation. The group stressed that “racism is the responsibility of the whole society, not just the ones being affected.” The group addressing the fourth theme—remedies, recourse, redress and [compensatory] measures—suggested that Canada could examine best practices used in the past, such as the 1988 redress agreement for Japanese Canadians, as a model for future efforts. It also expressed concern that the civil society consultation framework paper discussed “individual issues of racism” but did not properly address “systemic and collective issues.” Last, the group addressing the fifth theme—strategies to achieve full and effective equality—highlighted the impact of economic inequality underlying racism in Canada and abroad, and suggested that the government could create an intergovernmental committee in Canada to combat racism as well as increase its cooperation with the United Nations.

The groups then merged to hold a plenary discussion, during which they discussed the issues addressed by each group. Participants suggested that it would be useful for them to meet again in December following the regional and national consultations to discuss the results prior to Cabinet’s finalization of the government’s positions, but Hedy Fry indicated that it would be unlikely that the government’s schedule could accommodate this request. Once again, participants raised the issue of government funding for NGO participation in the World Conference. Hedy Fry responded that the government would provide financial resources to assist NGOs, but since funding was limited, the government would be more likely to fund organizations that worked collaboratively rather than those that worked independently. The government reiterated that it would also provide NGOs with information tool kits to help them

navigate through the UN bureaucracy and procedures. On balance, as was the case with the May 15 meeting, the second roundtable provided an early forum for constructive dialogue between government and civil society members.

#### **5.4 - Discussion paper for Canada's preparations for the World Conference**

In September 2000, Canadian Heritage released a discussion paper “to support domestic consultations to prepare Canada’s position” for the World Conference.<sup>180</sup> The September paper reiterated most of the key information provided in the May discussion paper about the political processes by which the domestic consultations would unfold, but also moved the process forward by initiating a more in-depth discussion about the substantive content of Canada’s political positions for the World Conference. It provided consultation participants with a series of questions about how they felt the government should prepare for the World Conference in the context of the five themes established at the first Preparatory Committee meeting, and invited participants to send written submissions to the Canadian Secretariat for its consideration. In addition, the paper served as the government’s first attempt to inform civil society members about its own approach to these themes, including past Canadian efforts to combat racism and the recognition of the ongoing need to review Canadian policies and laws addressing racism to ensure their maximum effectiveness.

Regarding the first theme, the government noted that efforts to combat racism needed to acknowledge the past, and recognize that racism can exist in both “everyday individual behaviors” as well as a result of “policies and practices of our organizations

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<sup>180</sup> Department of Canadian Heritage, “Canada’s Consultations for the World Conference against Racism, Discussion Paper – Draft,” (September 2000).

and institutions” and can be “expressed overtly or in a covert or subtle way.” The government further discussed the need to “examine whether there are systemic barriers produced by beliefs and behaviors borne of racism and intolerance in vital areas like housing, employment, health, justice and policing, education and social services” and to counter “denial of the past, hate motivated activity, derogatory or stereotyped media portrayal, barred or limited access to decision making and to professions and trades, under-representation in key sectors, and mistrust of newcomers.” The paper stated that participants at the domestic consultations would be asked for their input on several questions concerning Canada’s ability to discuss its history “honestly and in a balanced way,” important lessons learned about the Canadian experience, and “economic factors that contribute to racism.”

On the second theme, the government noted that victims of racism in Canada include “Aboriginal peoples and racial minorities such as Canadians of African descent.” The government stated that it was important to examine the impact of racism on different groups and noted that “marginalization created by racism, racial discrimination, or xenophobia is frequently compounded by intolerance based on gender, age, sexual orientation, disability, religion, language or other factors.” The paper asked participants of the consultations to consider who the victims of racism are in Canada, the consequences of racism for these affected individuals and groups, and the additive impact of racism on victims who are also marginalized in other ways, such as “women, youth, gays, lesbians, persons with disabilities, senior citizens, or members of a religious minority.”

On the third theme, the government discussed policies and laws designed to

prevent racism and protect affected individuals and groups, and also discussed the role of education and the media in the effort to combat racism in Canada. Regarding policies and laws, the government noted key documents, such as the *Charter of Rights and Freedoms*, the *Canadian Human Rights Act*, the *Employment Equity Act*, the *Official Languages Act*, the *Canadian Multiculturalism Act*, the *Immigration Act*, and sections of the Criminal Code that address hate propaganda. It further noted that “making equality a reality requires more than constitutional measures and legislation” and highlighted additional efforts to promote equality, such as the work of domestic human rights commissions, the Canadian Race Relations Foundation, and programs designed to assist Aboriginal peoples, newcomers to Canada and immigrants. Participants were asked to comment on the effectiveness of current Canadian legislation, related mechanisms, and rights instruments and to offer suggestions for improvement where needed.

Regarding educational measures to combat racism, the government discussed the need to ensure that education curricula better reflect the diversity of the Canadian population. The government also mentioned its efforts to engage and educate youth outside of the classroom and further noted the value of “life-long learning” and promoting education and training in the workplace. Participants were asked to consider ways that schools and education curricula could be used to combat racism, provide input on public education campaigns and comment on the intersection between diversity and anti-racism education. Regarding the media, the government recognized the important role that the media play in shaping attitudes and opinions, and discussed efforts to include more diverse perspectives in the media as well as efforts to combat hate speech on the internet and elsewhere. Questions addressed the portrayal of Aboriginal peoples and

racial minorities in the Canadian media, including news, advertising and programming. Questions also addressed the effectiveness of measures to eliminate barriers to the participation of Aboriginals and racial minorities in the media, and strategies to counter hate speech online.

On the fourth theme, the government acknowledged that “it is important to have in place the necessary remedies, recourse, redress and other measures” to alleviate the impact of racism on victims. Notably, the government was careful to downplay reference to the contested term “compensatory,” which at the time remained unresolved at the international negotiations. Nonetheless, the government stated that “while our record in recognizing the rights of all peoples is far from perfect, many instruments and mechanisms define basic rights in Canada and provide redress when individuals or communities believe their capacity to function has been unfairly infringed upon or restricted.” The government cited examples involving the legal system such as the *Court Challenges Program* and the *Native Court Worker Program* as well as examples from outside the court system, such as those created by the *Canadian Human Rights Act*. Questions addressed the adequacy of these institutions and mechanisms in responding to the needs of victims of racism in Canada and sought suggestions for reform or improvement. The government also discussed issues under the heading of “healing to promote social cohesion and forward progress” and referred to efforts such as the creation of the Canadian Race Relations Act and the Royal Commission on Aboriginal Peoples. Participants were provided questions about efforts to address systemic racism, and asked to provide suggestions about how best to recognize the contributions to Canadian society of Aboriginal peoples and minority communities.

Last, the government addressed the fifth theme by discussing the “new and emerging forces at play attributable to the impacts of globalization and new technologies that are challenging our current capacity to promote equality.” Discussing Canada’s policies of supporting open markets and free trade, the government noted that it needed “to do more to equip all Canadians with the skills and competencies they need to thrive and prosper in a future that promises to be increasingly competitive and fast-paced.” For example, it discussed the challenges facing some immigrants whose educational and professional qualifications and certifications are not recognized in Canada, and also issues of discrimination in education, training and employment. Questions addressed efforts to combat racism and ensure that Canada’s increasing integration in the global economy does not create or exacerbate divisions in Canada.

### **5.5 - Early efforts to engage Canadian youth**

The government’s emphasis on including Canadian youth in the World Conference against Racism occurred as part of its larger effort to include civil society in the process, as well as part of the government’s broader effort to engage and educate youth about the issue of racism and include youth in the Canadian political process more generally. For example, in 1996, Canadian Heritage established an annual national video competition in which youth are invited to produce home-made short videos discussing their ideas on how to eradicate racism in their communities. The government’s youth component for the World Conference began in March 2000, when Canadian Heritage, working in partnership with the Young Men’s Christian Association (YMCA) and the Boys and Girls Clubs of Canada, hosted a meeting in Ottawa of approximately 120 youth



from more than 24 countries as part of the government's "Racism. Stop It! Action 2000" campaign. Selected for their previous engagement in anti-racism advocacy, youth participants shared their experiences and worked to establish national and international networks of youth committed to fighting against racism. The Action 2000 campaign also facilitated their travel across Canada to share their experiences with a wider audience of Canadian youth.

The capstone event of the Action 2000 campaign occurred in August, when Canada took the lead in organizing and funding the International Youth Forum against Racism, held at the Canadian Pavilion at Expo 2000, in Hannover, Germany.<sup>181</sup> The eight-day event was attended by 55 youth from 14 countries, including 29 from Canada, and was designated by the United Nations as an official satellite event of the World Conference against Racism. In addition to providing educational activities and networking opportunities for participants, the forum produced a final report that was presented to the United Nations Office for the High Commission for Human Rights (UNHCHR), the government of South Africa, and Hedy Fry. The report contained three key recommendations: the creation of a youth council against racism within the UNHCHR, the establishment of a parallel youth forum in Durban alongside the World Conference, and UN recognition of youth civil society members as full participants in the World Conference against Racism.

In sum, the meetings in Ottawa and Germany provided some members of Canada's youth with an early opportunity to provide their input into Canada's preparations for the World Conference, and also helped them to better prepare for their

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<sup>181</sup> World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, "Report on the International Youth Forum against Racism, organized by the Government of Canada and held at Hannover, Germany from 4 to 12 August 2000." A/CONF.189/PC.2/Misc.2.

participation in the domestic consultation process that would soon follow in the autumn of 2000. In addition, some Canadian youth participants at the two meetings were later selected to serve as members of the two Advisory Committees, and subsequently, as members of the Canadian delegation at the World Conference.

## **5.6 - Creating the domestic institutional framework**

In the summer of 2000, Canadian Heritage created three key *ad hoc* institutions that served to help guide Canada's domestic preparations: The Canadian Secretariat for the World Conference against Racism, the Civil Society Advisory Committee, and the Aboriginal Advisory Committee. The Canadian Secretariat consisted of 10 officials from Canadian Heritage. Gilbert Scott, a career federal public servant and a former Director General of Multiculturalism, served as executive director. He was accompanied by individuals with policy experience in the areas of multiculturalism and Aboriginal issues, as well as others working in the communications field. The Secretariat performed five key functions throughout the preparatory process. It served as a liaison between Canadian Heritage and the two Advisory Committees; helped organize the domestic consultations; commissioned academic research reports surveying past government policies and recommendations addressing racism in Canada; administered the governmental process of providing funding for Canadian NGOs to attend the World Conference and the various domestic and international preparatory meetings events; and served as a general information clearing house to disseminate information about Canada and the World Conference to all interested members of Canadian civil society and the general public.

Two Advisory Committees were also established to advise Hedy Fry throughout

the domestic preparatory process. The Civil Society Advisory Committee was composed of 23 individuals who, as a group, represented diverse cultural backgrounds and had extensive experience working in the field of anti-racism research and advocacy.

Committee members included representatives of NGOs, ethnocultural organizations, Aboriginal peoples, youth, academia, labour, business and municipalities. The committee was chaired by Dr. Karen Mock, National Director of the League for Human Rights of B'nai Brith Canada. The mandate of the Civil Society Advisory Committee consisted of seven objectives:

- 1) advise on planning and implementation of the broad consultation process;
- 2) review and comment on input from the consultations;
- 3) help establish Canada's position for the WCAR and identify the elements of a renewed action plan to combat all forms of racism;
- 4) facilitate civil society preparations for WCAR
- 5) encourage participation by non-governmental organizations in the parallel Forum in South Africa;
- 6) contribute to the development of Canadian views on key international documents; and
- 7) support Canadian Heritage's UN Conference Secretariat in its role as an information clearing house for activities leading up to WCAR.<sup>182</sup>

In recognition of the unique experiences of Canada's Aboriginal peoples, a separate Aboriginal Advisory Committee was established to address issues of concern to First Nations, Métis and Inuit peoples. The Aboriginal Advisory Committee was composed of 12 individuals representing a variety of Aboriginal organizations in Canada and was chaired by Michèle Audette of the Quebec Native Women's Association. The Aboriginal Advisory Committee was assigned five main objectives:

- 1) Advise on planning and implement further consultations with Aboriginal peoples;
- 2) Provide guidance and assistance on key Aboriginal issues;
- 3) Review the Aboriginal component of the research initiative;

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<sup>182</sup> Department of Canadian Heritage, "Backgrounder: Advisory Committee to the Canadian Secretariat-World Conference against Racism," (Undated).

- 4) Continue an open dialogue with the Department of Heritage and;
- 5) Review and comment on input from the consultations.<sup>183</sup>

To coordinate their respective efforts, each Advisory Committee held a series of teleconference and in-person meetings with its members throughout the autumn of 2000 and spring of 2001. Members of the two Advisory Committees attended the regional and national domestic consultations, as well as the regional and international preparatory committee meetings and the World Conference. They also met with Hedy Fry, various officials in Canadian Heritage and other government departments, assisted civil society members in participating in the consultation process, and offered their own comments about Canada's positions on key issues on the Durban conference agenda. Lastly, the Civil Society Advisory Committee produced a series of research reports addressing issues such as hate propaganda and hate groups, past wrongs perpetrated by governments that have gone unaddressed, globalization and human rights, efforts to engage the private sector in promoting diversity, the criminal justice system, the role of education, and issues related to immigration, refugees and migrant workers.

The Advisory Committees faced several challenges in their respective efforts to fulfill their mandate. These challenges concerned the level of funding that each received from the government, the logistics of holding regular meetings with Committee members located throughout the country, the selection process by which individuals members of the Committees were chosen (and not chosen) to serve, the perception from some that the Advisory Committees lacked autonomy from the government, and the degree to which the Committees held meaningful influence over government policy outcomes.

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<sup>183</sup> Department of Canadian Heritage, "Backgrounder: Aboriginal Advisory Committee to the Canadian Secretariat-World Conference against Racism," (Undated).

## **5.7 - The domestic consultations**

The government's domestic consultation process with civil society began in September, 2000 when Canadian Heritage—via the Canadian Secretariat for the World Conference against Racism—organized a series of two-day regional consultation meetings held across Canada. Seven regional consultations were held in Edmonton (September 5-6), Vancouver (September 8-9), Winnipeg (September 11-12), Halifax (September 22-23), Toronto (September 24-25), Montreal (October 20-21), and Iqaluit (March 24-25, 2001). The discussions at each of the regional consultations were then used to guide a subsequent national consultation, which was held in Ottawa (February 23-24, 2001). In addition, the government organized an Aboriginal consultation in Winnipeg (April 6-7, 2001) and a youth consultation in Ottawa (July 13-15, 2001). According to Canadian Heritage, 1,115 people attended at least one meeting of the domestic consultations, including 487 Aboriginals, 102 youth and 38 Aboriginal youth.<sup>184</sup> Participants came from diverse backgrounds, and included individuals from NGOs, ethnocultural organizations, Aboriginal organizations, youth, academia, labour, business, and human rights commissions. Also in attendance were various members of the two Advisory Committees as well as some of the key government officials in Canadian Heritage and Foreign Affairs who had attended the international preparatory meetings in Geneva and Santiago. Following the completion of the domestic consultations, the government planned to use the feedback received to help construct a domestic declaration and plan of action to combat racism and racial discrimination in Canada.

Each of the consultations was structured in a similar manner and featured a mix of

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<sup>184</sup> Department of Canadian Heritage, "World Conference against Racism Action Newsletter, Volume 1," (Undated).

plenary meetings and separate workshops focused on specific issues, such as navigating the UN bureaucratic system and developing strategies for building national and international alliances with likeminded individuals and groups. Hedy Fry and other members of the Canadian delegation delivered remarks about Canada's participation in the international preparations for the World conference, and responded to questions from the audience. Tensions between government and various consultation participants were put on display on several occasions during these exchanges as a result of the divergent priorities between government, Aboriginal organizations and civil society members. Government speakers emphasized the inherent difficulties of reaching consensus at large UN conferences in which state participants come from all over the world and bring to the table conflicting interests and values. Accordingly, the tendency for UN conferences was often to produce consensus only on language at the lowest common denominator. Hence, the government of Canada explained that everyone involved would have to adopt reasonable expectations about what could be accomplished in Durban. Aboriginal organizations and civil society members countered that Canada needed to do all that it could to influence the international outcome and to use the opportunity to develop its domestic plan of action to combat racism. Thus, the domestic consultation process was, at times, a contentious process that brought to the forefront significant tensions between the government, Aboriginal peoples, and civil society groups on issues related to the politics of race and racism in Canada.

Throughout the consultations, members of the two Advisory Committees served as facilitators in the discussions. While they found some success in this effort, they also proved to generate tension as well, as some NGOs representatives viewed the Advisory

Committees not as neutral interlocutors between government and civil society, but rather as *de facto* representatives of the government itself. As a result, some NGOs challenged the legitimacy and independence of the Advisory Committees and criticized them for governmental decisions over which the Advisory Committees had no power, particularly decisions involving NGO funding for participation in the World Conference.

Additionally, some NGOs criticized the Civil Society Advisory Committee because its members served in their individual capacity rather than as representatives of the NGOs with which they were affiliated. For these reasons, some consultations participants created a separate NGO Committee designed to directly represent the collective voices of NGOs as such during the domestic preparatory process. The NGO Committee helped to disseminate information about the World Conference to the NGO community in Canada and helped NGOs prepare for the conference. Although the creation of the NGO Committee as a distinct institution served as an indication of the diverse and sometimes conflicting views held within Canada's NGO community about how to address the issues of race and racism in Canada, the work of the NGO Committee and the Civil Society Advisory Committee generally complemented each other as the various institutions had far more in common than not.

The Aboriginal Advisory Committee, however, faced additional challenges related to the many long-standing political and legal issues concerning the relationship between the Canadian government and Aboriginal peoples in Canada. In general, the committee expressed skepticism toward the government and its domestic preparatory process for the World Conference, which it felt was organized on government terms and meant to serve government interests rather than the various interests of Aboriginal

peoples in Canada. One member of the Aboriginal Advisory Committee described the collective mood of the committee as “very distrustful” of the Canadian government. For its part, the government recognized the weakness of its relationship with the Aboriginal Advisory Committee, although offered an alternate explanation. Hedy Fry expressed the view that both she, and the government, “didn’t have a strong relationship with the committee because the committee was mostly what we felt were really a bureaucratic body coming out of the First Nations administration”<sup>185</sup>

In addition to attending plenary meetings, consultation participants were organized into separate caucuses designed to focus on different communities and groups in Canada. Thus, there was an Aboriginal peoples caucus, an African-Canadian caucus, an Asian-Canadian caucus, an Immigrant and Refugee Issues caucus, a Labour caucus, and a Women’s caucus, among others. The division into caucuses served to help participants focus their work on issues of concern to their communities, and each caucus produced various written statements and resolutions highlighting their respective core issues and preferences for government action. At the same time, the caucus structure also had the unintended effect of somewhat inhibiting cross-cultural advocacy, and some participants indicated that they would have preferred more opportunities to work collaboratively. Participants emphasized that their community’s struggle against racism was intrinsically linked to the nation-wide, and indeed global, efforts to eradicate racism. Hence, while each caucus highlighted the concerns of their own respective community, most addressed topics relevant to many individuals and groups in Canada, such as employment equity laws, media representation of diverse communities, and immigration

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<sup>185</sup> Personal interview with Hedy Fry, Secretary of State (Multiculturalism)(Status of Women). (February 17, 2012).



and refugee policy, among others. In many cases, caucus statements provided policy analysis and recommendations that were highly critical of the government and went far beyond what the government was willing to accept in terms of concrete policy changes.

The Aboriginal caucus, which consisted of the major Canadian national Aboriginal organizations, appeared to be the most critical of the government. The caucus noted that while Canada itself had acknowledged in its 1999 report to the UN Human Rights Committee that the situation of Aboriginal peoples was “the most pressing human rights issue facing Canadians,” the government had consistently failed to take appropriate steps to address the situation. The caucus stated that:

Whereas in the colonization of Canada, indigenous peoples have been subjected to genocide and are subject to continuous dispossession of their lands and resources; the minimization, denial and extinguishment of their fundamental rights including the right of self-determination; deprivation of their own means of subsistence; suppression of their systems of governance and languages; the taking of whole generations of their children; forced relocation; systematic economic exclusion; environmental destruction; disproportionate imprisonment; and many other forms of racism.<sup>186</sup>

Citing Article II of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, the caucus demanded that the Canadian government:

acknowledge the historic and ongoing practices of genocide, such as ‘causing serious bodily or mental harm to members of the group’, ‘deliberately inflicting on members of the group conditions of life calculated to bring about its physical destruction in whole or in part’, ‘imposing measures intended to prevent births within the group’, and ‘forcibly transferring children of the group to another group.’<sup>187</sup>

To rectify this situation, the Aboriginal caucus demanded, among other things, that the government implement the recommendations of the 1996 Royal Commission on Aboriginal Peoples, fulfill its obligations arising from various UN human rights treaties,

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<sup>186</sup> National Aboriginal Caucus, “National Consultation: World Conference against Racism Resolution,” (February 23 & 24, 2001).

<sup>187</sup> National Aboriginal Caucus, “Time to Tell the Truth: Statement and Demands of the National Aboriginal Caucus, Canada’s Consultations: World Conference against Racism,” (February 23 & 24, 2001).

assume a leadership role in the international negotiations related to the UN Declaration on the Rights of Indigenous Peoples, and provide redress to Aboriginal peoples in Canada for racist government policies of the past, such as the use of residential schools.

In addition to protesting historical and present-day policies affecting Aboriginal peoples in Canada, the Aboriginal caucus further protested the entire domestic consultation process itself, which it viewed as inadequate and merely an effort by the government to promote the appearance of consultations without actually responding to the concerns and demands made by Aboriginal peoples. In advancing this view, the caucus noted that the government had already heard many of the concerns of Aboriginal peoples following previous consultation processes and had yet to fully address the recommendations of the Royal Commission on Aboriginal Peoples. Thus, in a statement addressing “appropriate Aboriginal participation” in Canada’s preparations for the World Conference, the Aboriginal caucus noted that “the government of Canada’s ‘consultation’ process was designed by others, and has seriously suppressed our voices by official refusal to fully acknowledge our history, our status, our rights, and the causes and disproportionate effects of continuing colonialism and racism against our Peoples” and that “the most marginalized and dispossessed among us are distant from and unaware of these consultations processes, as they try to face mass poverty and unemployment, shelterlessness, disproportionate incarceration, ill health and suicide.”<sup>188</sup> As a result, the Aboriginal caucus asserted the “illegitimacy of this process” and challenged its fundamental premise by stating that “we are aware of the government of Canada’s need to attend in South Africa and indicate that it consulted with a broad sector of civil society,

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<sup>188</sup> National Aboriginal Caucus, “Resolution Regarding Appropriate Aboriginal Participation, National Consultation Process: World Conference against Racism,” (February 23 & 24, 2001).

including Aboriginal peoples. We are regrettably unwilling to assist Canada in this pretence or to legitimate this ‘consultation’ by our presence.”<sup>189</sup> Thus, “the government of Canada will not legitimately be entitled to claim in South Africa that it consulted broadly or effectively with Aboriginal Peoples.”<sup>190</sup>

The African Canadian caucus also issued a statement that was strongly critical of the government.<sup>191</sup> The caucus stated that “despite higher levels of education, African Canadians are still plagued by problems of poverty, overrepresentation in the criminal justice system, and underrepresentation in middle and upper level management positions within the public, parapublic and private sectors.” The caucus called on the government to “officially recognize the reality and legacy of slavery, segregation and systemic racism in Canada” and to “implement specific measures to compensate African Canadians for the experiences and legacies of slavery, discrimination and other related injustices as the Canadian Government has done for Japanese Canadians.” The caucus also called for greater representation of African Canadians in the Canadian public sector, judicial system, and media. It additionally called for Canada to ensure that its “immigration and refugee legislation, policies and practices do not discriminate against peoples of African descent, especially in the selection and deportation processes” and that its “foreign policy does not favour Europe over Africa and the Caribbean in the areas of foreign aid and accreditation.”

The Asian-Canadian caucus referred to their communities’ “long and deeply

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<sup>189</sup> National Aboriginal Caucus, “Time to Tell the Truth.”

<sup>190</sup> National Aboriginal Caucus, “Resolution Regarding Appropriate Aboriginal Participation.”

<sup>191</sup> African Canadian Caucus, “Declaration of the African Canadian Caucus, Canada’s National Consultations: World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,” (February 23 & 24, 2001).

racialized history in Canada” that continues “to live with the impact of that racist past. These incidents include the head tax and other forms of Asian exclusion, the Japanese-Canadian uprooting and internment, and the Komagata Maru incident, the effects of which linger in our communities today.”<sup>192</sup> The caucus also noted that while their communities “continue to live with the effects of past racist experiences, new Asian communities face new forms of racism, which include the creation of myths of the dangerous foreigner, and the discourse over an ‘Asian Invasion’.” The caucus called for measures addressing “effective implementation of employment equity practices, fair immigration policies and practices, equal access to accurate representation in the media, effective human rights mechanisms to counter anti-Asian as well as all forms of racism, redress for the head tax and other historical wrongs, labour legislation that protects migrant workers [and] ratification of conventions on the rights of migrant workers and their families.”

The youth caucus emphasized the logistical challenges facing youth who strive to engage in impactful anti-racism advocacy and provided recommendations that would ease these efforts.<sup>193</sup> For example, the caucus called on Canadian Heritage to establish a “national and potentially international” network of youth that would coordinate research and advocacy and provide resources such as a website, newsletter, discussion group, and a database of youth generated anti-racism materials and workshop guides. Additionally, the network could fund exchange programmes and scholarships and host youth-oriented anti-racism conferences in Canada. The youth caucus also called on the government to

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<sup>192</sup> Asian Caucus, “Statement by the Asian Caucus at Canada’s Consultations for the World Conference against Racism,” (February 23 & 24, 2001).

<sup>193</sup> Youth Caucus, “Canadian National Consultations for the WCAR, Document 1YA,” (February 22, 2001).

expand the March 21 campaign.

The Immigration and Refugee caucus spoke of the need for the government to amend Canadian laws where needed to ensure harmonization between domestic laws and international human rights standards, and to amend the *Immigration Act* to ensure that it provides effective court protection for individuals facing immigration and deportation procedures.<sup>194</sup> The caucus also called for mandatory anti-racism workplace education for government employees working in the areas of immigration and refugee policy. It also asked Canada to ratify the UN Convention on Migrant Workers. The Canadian Labour Caucus recommended that the government develop a national anti-racism framework to review key legislative acts and to provide Parliament with annual reports addressing policy efforts to eliminate racial discrimination in Canada. The caucus also asked the government to support the use of the term “compensation” in the five themes of the World Conference against Racism, and for the government to “include in its program of action statements which link Globalization and racism.”

The Women’s caucus noted the intersection between racism and gender discrimination and sought to ensure that all issues be viewed “through a gendered lens.”<sup>195</sup> It called for inter-caucus liaisons to ensure that women’s issues were being considered within all caucuses and for resources to be provided “to produce a report documenting the experiences of women and their children and formulating recommendations to be incorporated into Canada’s plan of action.” Similarly, the Lesbian and Gay caucus called for greater focus on the intersection between racism and

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<sup>194</sup> Immigration and Refugee Caucus, “Statement by the Immigration and Refugee Caucus at Canada’s Consultations for the World Conference against Racism,” (February 23, 2001).

<sup>195</sup> Women’s Caucus, “Statement by the Women’s Caucus at Canada’s Consultations for the World Conference against Racism,” (February 23 & 24, 2001).

homophobia and for the government to adopt a “critical anti-racist, anti-sexist and anti-homophobic analysis” throughout its domestic plan of action.<sup>196</sup>

Other concerns were also raised outside of the consultation caucus structure. During the question and answer period of one presentation, a representative of the Canadian Arab Federation discussed the issues of racial profiling and negative stereotypes directed toward Arabs and Muslims in Canada, and the importance of effective employment equity laws. The representative also raised concerns about Canadian foreign policy toward Iraq and the Arab-Israeli conflict.<sup>197</sup>

Although the Aboriginal caucus strongly challenged the legitimacy of the government’s consultation process, several representatives of civil society organizations representing other communities found the process to be effective at least insofar as it provided them with some degree of access to government officials and opportunities to dialogue with them. For example, Karen Mock, who attended the consultations both as chair of the Civil Society Advisory Committee and as a representative of B’nai Brith Canada, noted that dialogue between government and civil society was “exactly what [the consultations] were about ... There were bilateral meetings, there were private meetings ... so there was definitely access. There was formal access. There was informal access. There would be dinners, there would be lunches. There would be displays to look at, there would be social down time.”<sup>198</sup> Margaret Parsons, of the African Canadian Legal Clinic, noted that the consultations “created dialogue with government, between

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<sup>196</sup> Lesbian and Gay Caucus, “Statement by the Lesbian and Gay Caucus at Canada’s Consultations for the World Conference against Racism,” (February 23 & 24, 2001).

<sup>197</sup> Department of Canadian Heritage, “Canada’s Consultations for the World Conference against Racism,” (February 2001).

<sup>198</sup> Personal interview with Karen Mock, Chair of the Civil Society Advisory Committee. (October 28, 2011).

government, but also between NGOs ... They heard from the African Canadian community our position on reparation and anti-black racism. I think for the most part that dialogue really helped them to better understand why we wanted these positions.”<sup>199</sup>

Similarly, Keiko Miki, of the National Association of Japanese Canadians, said that “I really felt positive about it ... I did feel that they did a good job of trying to invite diverse groups and trying to get input from as many different NGOs, but also organizations, just the grassroots organizations ... I felt that it was a good process.”<sup>200</sup>

At the same time, several representatives of civil society organizations that participated in the consultations raised concerns that the dialogue they had with government did not necessarily translate into effective policy action from the government. As Karen Mock lamented, “when people do that kind of work and give their time ... and then, if the secretariat staff and others can’t take that information and turn it into something meaningful, that’s where we felt let down ... my feeling is that they didn’t want to take that risk.”<sup>201</sup> Margaret Parsons, discussing Canada’s position on the issue of reparations, noted that several African Canadian NGOs expressed “disappointment” with the government. “We expressed the lack of support we felt on that particular issue because that’s important to our community and we weren’t backing down on it ... we really did feel betrayed and we felt let down by our government on that.”<sup>202</sup>

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<sup>199</sup> Personal interview with Margaret Parsons, Executive Director of the African Canadian Legal Clinic. (May 18, 2012).

<sup>200</sup> Personal interview with Keiko Miki, President of the National Association of Japanese Canadians. (June 22, 2012).

<sup>201</sup> Personal interview with Karen Mock, Chair of the Civil Society Advisory Committee. (October 28, 2011).

<sup>202</sup> Personal interview with Margaret Parsons, Executive Director of the African Canadian Legal Clinic. (May 18, 2012).

Two weeks after the completion of the national consultation process, the government announced a decision that stunned many civil society organizations and left them questioning the government's commitment to translating the domestic consultation process into a concrete set of policies at the federal level to combat racism and racial discrimination. In March 2001, the government decided to abandon its original plan to produce a domestic plan of action in advance of the World Conference. In its place, the government released only a short list of 12 priorities, which addressed the following areas:

- 1) Acknowledging the Past
- 2) Recognizing Victims and Groups Vulnerable to Racism
- 3) Intersectionality and Multiple Discrimination
- 4) Redress and Remedies
- 5) Globalization
- 6) Holistic and Forward Looking Approach to Racism and Diversity
- 7) Hate and Bias
- 8) Role of the Media
- 9) Role of Civil Society
- 10) Youth
- 11) Cooperation at the International Level
- 12) Education and Other Concrete Preventative Strategies<sup>203</sup>

In effect, the 12 priorities were little more than a modified version of the 10 priorities that Canada had previously announced at the Regional Conference of the Americas. Civil society organizations raised two major concerns about the government's 12 priorities. First, as a matter of procedure, the government decided to abandon the efforts to create a domestic plan of action without informing any of the civil society organizations that had just participated in the consultation process. Civil society organizations were thus blindsided by the government's change in plans and many felt that the government had simply walked away from the promises it had made to establish an open line of

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<sup>203</sup> Government of Canada, "Canadian Delegation to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance: Intersessional Working Group," (March 6-9, 2001).



communication with them. Second, as a matter of policy substance, the government phrased the 12 priorities only in general terms and made clear that it would not be establishing any new policies or enhancing existing policies. No new funding would be forthcoming. Indeed, the government specifically ruled out the possibility of implementing any form of domestic redress and remedies for past racially-motivated injustices by arguing that:

In Canada, we have taken a multi-faceted approach to the issues of remedies and redress and do not believe that granting financial compensation for historical action is appropriate. Canada has addressed historical actions through measures such as repealing legislation, establishing the Canadian Race Relations Foundation, formally acknowledging and regretting historical action in a Statement of Reconciliation, supporting activities such as the production of films, academic research and other means of commemoration, as well as developing policies that contribute to the beginning of institutional change. While we continue to address the past through such initiatives, we believe that government resources should be used to invest in the future, in the creation of a more equitable society now and a better future for generations to come.<sup>204</sup>

As Karen Mock, chair of the Civil Society Advisory Committee, explained in her final report on the Committee's work, the government's 12 priorities were "more vague than the previous approach, and thus the expectations of the Advisory Committee, NGO community and other stakeholders were not met, resulting in frustration, disappointment and tension. Many members of the NGO community felt a sense of distrust, betrayal and disillusionment with the Canadian government."<sup>205</sup>

In the end, the government's domestic consultation process produced its share of both successes and shortcomings. On a positive note, the process provided a diverse group of civil society organizations with an opportunity to meet with government officials and share their concerns about key issues that impact their communities. The process also provided opportunities for likeminded organizations to interact with each

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<sup>204</sup> Ibid.

<sup>205</sup> Karen Mock, "Civil Society Advisory Committee Summary Report," (September 25, 2002).

other, share their knowledge and experiences, and form broader networks of civil society organizations committed to combating racism and racial discrimination in Canada and abroad. In this sense, many participants found the process to be a useful and constructive one. On a negative note, the process failed entirely to establish a meaningful dialogue between government and Aboriginal organizations, as Aboriginal organizations felt that the government was more interested in creating the appearance of consultation rather than engaging in substantive efforts to revise government policies impacting Aboriginal communities. In addition, civil society organizations also raised concerns about the extent to which government was prepared to translate the consultation dialogue into action. The fact that the national consultation was delayed until after the Regional Conference of the Americas already left civil society organizations with a feeling that the government tended to view their input as an afterthought. The government's subsequent decision to abandon the domestic plan of action further reinforced the view that the government's decision making process did not leave much room for civil society input.

## **CHAPTER 6: THE INTERNATIONAL PREPARATIONS (PART II)**

The four regional preparatory meetings held in late 2000 and early 2001 provided states with an initial opportunity to formulate some ideas that could be fed into the negotiations at the international level scheduled for the first half of 2001. In January, states gathered in Geneva to hold a two-day informal consultation. In March, the inter-sessional open-ended working group met for four days to discuss a draft declaration and programme of action prepared by Mary Robinson. An informal meeting of the working group was held in early May. By this stage in the preparatory process, the overall tenor of the debate had become very contentious and polarizing, particularly with regard to debates on the Middle East and the reparations issue. The preparatory process began to fall behind schedule as states were unable to reach agreement on large portions of the draft declaration and programme of action. By March, articles in the Canadian media began to take note of the slow and divisive nature of the process. In late May, states gathered to hold the Second Preparatory Committee Meeting, which was originally scheduled to be the last one in advance of the World Conference, but the lack of progress made at the meeting required states to schedule a Third Preparatory Committee Meeting, which was held in early August. Even with this additional effort, the most contentious issues remained unresolved throughout the preparatory process and were left for states to confront in Durban.

### **6.1 - The Meetings of the Inter-sessional Working Group**

On January 15-16, 2001, states gathered in Geneva for a brief “informal consultation.” At the time, the High Commissioner for Human Rights, Mary Robinson,

was still in the process of preparing a first draft of the declaration and programme of action designed to help guide states during the negotiations. At the January meeting, Robinson's office circulated an information paper containing a short "vision statement," selected excerpts from the two previous UN racism conferences as well as excerpts from five "expert seminars" that had been held during the past year. Her office also circulated various suggestions from states that had been sent to her office, including some suggestions from Canada. The brief meeting had the modest goal of providing states with an opportunity to present some initial views about the emerging agenda of the World Conference. Accordingly, the Canadian delegation at this meeting was smaller than the delegation sent to previous international preparatory meetings for the World Conference, and consisted of three DFAIT officials, one Canadian Heritage official and two representatives from the province of Quebec.

The international negotiations continued to reveal clear differences between states on many issues, and in particular, regarding the Middle East and the reparations issues.

The suggestions presented to Robinson's office by the Organization of the Islamic Conference (OIC) referred to the Middle East by stating that:

The World Conference recognizes Jerusalem as a city of reverence and religious sanctity for three major religions of the world, which can serve as a land for cultural, civilizational and religious dialogue and the epitome of tolerance, conclusion and understanding. It calls for an international endeavor to bring foreign occupation, together with all its racist practices to an end, mainly in holy shrines dear to the three religions, such as the case in the occupied city of Jerusalem which is being exposed to practices aimed at altering its geographic, demographic and institutional characteristics, and Judaizing this city, in total violation of the principles of international law, international humanitarian law and the multiple resolutions of United Nations General Assembly, Security Council and the Commission on Human Rights and to refrain from any measures leading to its recognition. In this context, the World Conference urges the international community to refrain from taking any measure leading to the recognition of Jerusalem as the capital of Israel.<sup>206</sup>

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<sup>206</sup> World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, "Suggestions made by States, United Nations bodies and Specialized Agencies, National Institutions, and Non-Governmental Organizations regarding the Content of the Draft Declaration and Programme of Action," (January 15-16, 2001). WCR/IC/2001/Misc.3.

The OIC suggestion also discussed the slave trade and colonialism, noting that:

States which peruse racist policies should also assume the responsibility of, and provide compensation, including an apology, for their policies based on racial superiority, such as colonialism, ethnic cleansing and slave-trade.<sup>207</sup>

By contrast, Canada and other Western states emphasized the importance of remembering the past, but rejected the calls for compensation. Canada's discussion of historical racism stated that "it is necessary to acknowledge the past and recognize the full range of causes and forms of racism existing in society today" while the European Union stated that it "recognizes the importance of remembering the suffering caused by slavery or which arose from colonialism." Neither Canada nor the European Union addressed the Middle East at all.<sup>208</sup>

The suggestions from India regarding racism and the caste system introduced another controversy into the agenda of the World Conference. India stated that it was "strongly opposed to attempts in certain quarters to include issues, not related to racism, in the agenda of the World Conference" and referred to "calls by certain NGOs to include the caste system in the agenda of the Conference." The term caste, India stated "is not based on race."<sup>209</sup> As the preparatory process continued, the issue of the caste system continued to be raised by international NGOs, but India's position did not move.

Not surprisingly, the two-day informal consultation did little to bridge the gap between states on the most divisive issues. However, due to the limited goals of the meeting, Canada left the event feeling that "the objectives of this informal meeting were met." In its report on the meeting, DFAIT noted that the event "provided a relatively non-

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<sup>207</sup> Ibid.

<sup>208</sup> Ibid.

<sup>209</sup> Ibid.

confrontational atmosphere for States to highlight their priorities and concerns for the WCAR” and that the “frank presentation of views was useful in underlining the risks to the success of the WCAR from an excessive focus on the issue of inter-state compensation for historical injustices.” In recognition of the challenges facing states in their effort to reach consensus, the report further noted “the need to develop and discuss a draft declaration and plan of action during the intersessional period so that efforts can be made to resolve this and other contentious issues in advance of Durban.”<sup>210</sup>

The next international meeting during the inter-sessional period occurred from March 6 to 9, 2001. By this time, all four regional preparatory meetings had been held. As a result, states were better prepared to present their positions on key issues, but had also become further entrenched in their own views. Thus, the negotiations only grew more polarized as time went on.

Similar to the informal consultation, Canada sent a small delegation, which consisted of three DFAIT officials and two Canadian Heritage officials. Canada also sponsored eight Aboriginal organizations and Canadian NGOs to attend. Canada’s goal for the meeting was to present its 12 point priorities for the World Conference, which it did on the first day of the meeting. As mentioned, the 12 priorities were a slightly expanded version of the 10 priorities presented at the Regional Conference of the Americas, amended to include Canada’s position against reparations. Canada’s statement highlighted the need for the World Conference to address indigenous peoples, people of African descent and people of Asian descent. Canada also stated that “the issues of anti-Semitism, Islamophobia, discrimination against Roma, and anti-Arab bias also need to be

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<sup>210</sup> Department of Foreign Affairs and International Trade, “WCAR – 15-16 Jan Informal Consultations, Geneva – Report,” (January 16, 2001).

addressed at this conference. It is for that reason that we propose that the text of the declaration include a number of paragraphs that draw attention to the particular barriers these people face.” Canada also highlighted “the particular challenges of multiple discrimination” and suggested that “the declaration and program of action address in a more consistent manner the marginalization of people who face discrimination based on gender, age, sexual orientation, physical or mental ability and barriers based on social or economic status.”<sup>211</sup>

The principal objective of the March meeting was for states to discuss the draft version of the declaration and programme of action that Mary Robinson’s office had released in late February.<sup>212</sup> However, the draft proved to be deeply problematic for states and was ultimately counterproductive in moving the agenda forward and promoting consensus. Robinson’s draft sought to incorporate language from each of the four regional preparatory meeting documents, the Vision Statement, the five expert seminars and the UN’s previous racism conferences. While the Robinson draft contained many laudable normative statements about the need to eradicate racism, racial discrimination, xenophobia and related intolerance, it was more notable for its omissions: the draft document made only brief mention of the slave trade and colonialism and did not discuss the Middle East at all. The document was also inconsistent with respect to indigenous issues, at various times using the terms “indigenous peoples,” “indigenous people” and “indigenous populations.”

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<sup>211</sup> Government of Canada, “Working Group of the Preparatory Committee of the World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance: Statement by the Canadian Delegation,” (March 6, 2001).

<sup>212</sup> World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, “Draft Declaration and Programme of Action of the World Conference: Elements for a Draft Declaration and Programme of Action for the World Conference, Note by the Secretary-General.” A/CONF.189/WG.1/3.

The document's sole reference to colonialism merely noted that the World Conference "salute[s] the memory of all victims of racism and racial discrimination and apartheid all over the world." The document's sole reference to the slave trade noted that the World Conference "affirm[s] that the slave trade, particularly of Africans, was an appalling tragedy in the history of humanity, not only because of its abhorrent barbarism but also in terms of its enormous magnitude, its institutionalized nature, its transnational dimension, and especially its negation of the essence of the victims, and further note that the practice of slavery is now recognized as a crime against humanity." Additionally, while the Robinson draft contained subheadings addressing specific victimized groups and issues, such as women; children; migration and trafficking; asylum seekers, refugees and internally displaced persons; minorities; Romas; indigenous issues; it notably excluded separate subheadings for people of African descent or for persons of Asian descent.<sup>213</sup> As a result, states in Africa, the Caribbean and the Middle East strongly rejected the document as a basis for negotiation, and most of the March meeting was devoted to a debate, split along North-South lines, about whether the Robinson draft would be maintained as a basis for negotiation or scrapped altogether. In addition to continued debate about the reparations issue, the March meeting marked the beginning of the acrimonious debate about the Middle East that would come to dominate much of the agenda of the World Conference for the next six months.

The March meeting concluded without states having performed a "first read" of the document, meaning that states did not reach consensus on any portion of the document and thus left the entire document open for negotiation at subsequent meetings. In addition, states unhappy with the Robinson draft used the March meeting as an

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<sup>213</sup> Ibid.



opportunity to propose additional paragraphs in the text, resulting in a revised draft document that was substantially longer, but no more likely to generate consensus. One DFAIT official involved in the negotiations described the Robinson draft by observing that her office “tried to judge where they thought there could be agreement and developed a draft document. And soon people were just submitting proposals and it just grew to this enormous size text, very unwieldy. So it was a bit of a very chaotic time ... It was probably ill-advised to come forward and put this text which really didn’t satisfy anybody.”<sup>214</sup> Thus, the March meeting failed completely to achieve its objectives and served only to escalate conflict between states.

The Canadian delegation to the meeting took note of these developments in its report.<sup>215</sup> It observed that the meeting “unfortunately quickly transformed itself into a North South confrontation as the G77 closed ranks and decided to oppose the draft Declaration and [Programme of Action] which, they considered, unacceptably omitted their issues.” The report described how “instead of the planned consideration of the draft, the first two-and-half days were taken up with procedural wrangling over method of work, and by the related political posturing by hard-liners within the Asian and African Groups.” In recognition of the slow progress, the report noted that the inter-sessional working-group would hold another meeting in May, but that it was at the time “not clear exactly how work will proceed.” Although Canada remained firmly aligned with the Western positions on reparations and the Middle East, and was not willing to accept many of the suggestions offered by African and Middle Eastern states, Canada

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<sup>214</sup> Personal interview with Deborah Chatsis, 1st Secretary, Permanent Mission of Canada to the UN, Geneva. (September 12, 2012).

<sup>215</sup> Department of Foreign Affairs and International Trade, “Report on Intersessional Working Group – WCAR,” (March 15, 2001).

nonetheless appeared to recognize that the Robinson draft as presented was effectively a non-starter. For example, Canada's report characterized the Robinson text as "hastily assembled from the less contentious paragraphs of the four regional intergovernmental preparatory meetings" and noted that the draft Programme of Action did not include "any extensive references to 'Africans and people of African descent.' " This omission "only lent credibility to those who argued these were 'Western Group' drafts."<sup>216</sup>

In the aftermath of the March meeting, Canadian media began to take note of the divisive nature of the debates. A *Globe and Mail* article noted concerns that the language being used bordered on a revival of the accusation that Zionism was a form of racism.<sup>217</sup> Media reports also indicated that the United States had already begun considering the possibility of boycotting the World Conference to protest the language used to describe Israel. Canada adopted a milder tone; a spokesperson for DFAIT was quoted by the *National Post* as saying that Canada "oppose[d] attempts to equate Zionism as racism, but we haven't yet decided if we'll attend should this debate be on the agenda."<sup>218</sup> An editorial in the *National Post* advised Canada to avoid the World Conference.<sup>219</sup>

In the weeks following the March meeting, Mary Robinson's office worked to revise the draft declaration and programme of action in an effort to respond to the criticism leveled against the document. On May 2, a few days before the next and final meeting of the inter-sessional working group, her office released a compilation document

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<sup>216</sup> Ibid.

<sup>217</sup> Stephanie Nolen, "Zionism-as-Racism Furor Threatens to Engulf UN." *The Globe and Mail*, March 8, 2001. A1.

<sup>218</sup> Steven Edwards, "UN Racism Conference Turns Ugly: US May Boycott, Canada on Fence as West, Israel, Assailed." *The National Post*, March 12, 2001. A1.

<sup>219</sup> The National Post Editorial Board, "Anti-Zionist Racism." *The National Post*, March 16, 2001. A15.

that brought together the proposals contained in her office's earlier document as well as language from each of the four regional preparatory meetings.<sup>220</sup> At more than 100 pages of text, the revised document was substantially longer than the original draft released by her office. This length reflected the limited progress that had been made at the previous meetings and focused attention on the need for states to begin to reach consensus on a slimmed down version of the document. However, the May meeting of the inter-sessional working group proved to be no more successful than previous meetings. On the contrary, it served only to highlight how far apart states remained and how much work remained to be done.

The Canadian delegation to the May meeting consisted of three DFAIT officials and three Canadian Heritage officials. Five Aboriginal organizations and civil society groups were sponsored by the government to attend as well. As the Canadian report on the meeting indicated, progress at the May meeting was slow.<sup>221</sup> Overall, Canada noted that the meeting "neither eased our concerns about the potential of the WCAR to dissolve around the issues of 'Zionism as racism' and compensation for historical injustices, nor reduced the enormity of the task ahead to produce an acceptable and meaningful declaration and programme of action." The Canadian report described negotiations on the draft declaration as full of "polemic and political posturing" and "[c]learly not a proper negotiation ... The result was an increase in the length of the declaration from the original 41 paragraphs to 226!" Similarly, negotiations on the programme of action were

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<sup>220</sup> World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, "Compilation of the Secretariat's Draft Declaration and Programme of Action, and the Final Documents of the Regional Intergovernmental Meetings held in Strasbourg, Santiago de Chile, Dakar and Tehran." A/CONF.189/PC.2/29.

<sup>221</sup> Department of Foreign Affairs and International Trade, "Second Session of the WCAR Intersessional Working Group," (May 11, 2001).

characterized as “excruciatingly slow” as states spent an entire three hour session discussing a single paragraph.<sup>222</sup> Negotiations also bogged down on procedural matters as states debated how to rationalize the lengthy text and about whether the declaration and programme of action should be negotiated in sequence or concurrently. Overall, the week-long meeting accomplished little.

Throughout the meetings of the inter-sessional working group, Canada remained firmly opposed to introduction of the Middle East as an item on the World Conference agenda, and especially the efforts to equate Zionism with racism. In a statement to the May meeting, the Canadian delegation indicated that it was “very concerned by some of the proposals that have been made, particularly with respect to the situation in the Middle East, and which have had the immediate effect of politicizing the debates and considerably slowing down our work.”<sup>223</sup> For example, several states belonging to the Organization of the Islamic Conference requested language condemning “the genocide of ethnic Arabs in historic Palestine” and the “racist practices of Zionism.” Email correspondences between the Canadian delegation in Geneva and DFAIT officials in Ottawa revealed the growing pressure facing Canada as it sought to balance its desire to remain involved in the World Conference and work toward a positive outcome with its desire to forcefully combat the language being used to describe Israel. The possibility of a Canadian withdrawal from the entire Conference was never off the radar of the Canadian delegation. As one DFAIT official said to the Canadian delegation:

the tone and substance of debate will be factored into any consideration of Canada’s

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<sup>222</sup> Ibid.

<sup>223</sup> Government of Canada, “Statement by Marie Gervais-Vidricaire, head of the Canadian Delegation at the Informal Working Group of the Preparatory Committee of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.” (May 11, 2001). Translated from French by the author.

participation in the preparatory work of the Conference itself. At present, we remain committed to working towards a forward-looking global commitment to eradicate racism and racial discrimination. At this time we continue to believe that this is the best way to positively influence Conference outcomes. However, you should be clear, if asked, in stating that the form and level of Canadian participation at the Conference will be further evaluated after the next preparatory meetings as we continue to watch the evolution of the debate, and when we have a clearer understanding of what the conference outcomes might be.<sup>224</sup>

Members of the Canadian delegation continued to meet regularly with Aboriginal organizations and Canadian NGOs throughout the inter-sessional working groups meetings. Government officials provided updates about key developments related to the negotiations while Aboriginal organizations and NGOs offered input into Canada's positions. The meetings provided additional opportunities for dialogue between government, Aboriginal organizations and Canadian NGOs on a variety of issues related to the World Conference agenda, including issues about which the involved actors did not always agree. In general, the overall tenor of these meetings was similar to the meetings held at previous World Conference preparatory meetings.

In sum, the informal consultation and meetings of the inter-sessional working group served to highlight the divisions between states, but did little to bridge them. The issue of the Middle East, which had previously gone unmentioned at the First Preparatory Committee meeting, emerged as a major issue on the agenda. The first draft document released by Mary Robinson's office at the March meeting proved to be completely unworkable and was strongly rejected by states throughout Africa, Asia, South and Central America, the Caribbean, and the Middle East, which felt that the document ignored their concerns as expressed in the texts of their respective regional preparatory meetings. This misstep by the Office of the High Commissioner for Human Rights

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<sup>224</sup> Department of Foreign Affairs and International Trade, "Instructions on 'Zionism is Racism' Issue," (May 8, 2001).

brought the negotiations to a halt and left Robinson and her office with no choice but to abandon their first attempt and begin anew with a substantially longer document that simply incorporated large portions of the text from all four regional preparatory meeting documents. At the end of the final meeting of the inter-sessional working group, states had cobbled together a lengthy and unwieldy draft declaration comprised more than 200 paragraphs and a draft programme of action comprised of more than 300 paragraphs.<sup>225</sup> All of the most contentious issues remained unresolved and the growing sense of urgency was felt by all states involved as well as the office of Mary Robinson.

## **6.2 - The Second Preparatory Committee Meeting**

The limited progress made at the meetings of the inter-sessional working group underscored the difficulties that lay ahead for states as they began the second meeting of the Preparatory Committee, which was held in Geneva from May 21 to June 1, 2001.<sup>226</sup> It was at this point that states began serious negotiations over the draft declaration and programme of action following the procedural debates and politicized rhetoric that dominated most of the inter-sessional working group meetings. Nonetheless, the Second Preparatory Committee meeting accomplished less than what was hoped. Although originally scheduled as the final preparatory meeting in advance of the World Conference, the meeting concluded with large portions of the draft documents left unresolved, forcing states to schedule a Third Preparatory Committee Meeting in August.

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<sup>225</sup> World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, “Draft Declaration and Programme of Action: Proposals Made at the First and Second Intersessional Open-Ended Working Groups, held from 6 to 9 March 2001 and 7 to 11 May 2001,” A/CONF.189/PC.2/27.

<sup>226</sup> World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, “Report of the Preparatory Committee on its Second Session,” A/CONF.189/PC.2/30.

The meeting was attended by 134 states as well as by representatives from the Holy See and Palestine. Also in attendance were various UN branches, human rights bodies and mechanisms (such as the UN Development Programme and the various UN committees that enforce international human rights treaties), specialized agencies and related organizations (such as the International Labour Organization and the World Health Organization), and intergovernmental organizations (such as the European Union, the Organization of African Unity and the Organization of the Islamic Conference). In addition, hundreds of NGOs from around the world participated.

The central objective of the Second Preparatory Committee meeting was to consider the draft declaration and programme of action that had been assembled at the inter-sessional working group meetings. The meeting opened with an address by Mary Robinson that was notably less optimistic in tone than the address she delivered to open the First Preparatory Committee meeting one year before. Though trying to put a positive spin on developments, Robinson conceded that “a lot still remains to be achieved. Progress on drafting the final declaration and programme of action has been slower than many had hoped.”<sup>227</sup>

In recognition of the importance of the Second Preparatory Committee meeting, the Canadian delegation was larger than the one sent to each of the previous World Conference preparatory meetings. It consisted of five DFAIT officials, seven Canadian Heritage officials, one official from Indian and Northern Affairs, and two from the Department of Justice. The delegation also included two representatives from the province of Quebec. Five representatives from Aboriginal organizations and Canadian

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<sup>227</sup> Mary Robinson, “Opening Remarks to Second Preparatory Conference,” Address by Mary Robinson, United Nations High Commissioner for Human Rights and Secretary-General of the World Conference against Racism. May 21, 2001.

NGOs were selected as observers of the delegations and an additional 23 NGOs and Aboriginal organizations were sponsored by the government to attend the meeting.

Not surprisingly, the Second Preparatory Committee meeting did not proceed as hoped. Most of the first two days of the meeting were lost to a debate about the accreditation of six NGOs, a rather straight-forward procedural issue that should have been resolved routinely.<sup>228</sup> Only four of the scheduled fifteen hours of the first two days were devoted to negotiations and only three paragraphs out of approximately 600 were adopted during this time. States began discussions on whether to continue negotiations in the plenary or to divide their work into two committees, one for the draft declaration and another for the draft programme of action.

On the third day, states began more serious negotiations. Because of the lengthy and unfocused nature of the draft texts before them, states decided to establish a working group of 21 states (group of 21) that would meet outside of the plenary and work to rationalize the draft declaration and programme of action. The membership of the group consisted of South Africa, which served as chair, and four states from each of the five geographical regions in the UN system. The membership consisted of: Barbados, Brazil, Chile, and Mexico (Latin America and the Caribbean); Kenya, Nigeria, Senegal and Tunisia (Africa); India, Iran, Iraq and Pakistan (Asia); Czech Republic, Croatia, the former Yugoslav Republic of Macedonia and Russia (Eastern Europe); France, Sweden, the United States and Canada (Western Europe and Others). The formal mandate of the group of 21 was:

- 1) To regroup or cluster paragraphs of the draft declaration and programme of

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<sup>228</sup> The six NGOs were the Asian Indigenous Peoples' Pact; the Peoples' Forum for Human Rights and Development, Bhutan; the Tamil Centre for Human Rights; the Tibetan Centre for Human Rights and Democracy; Human Rights in China; and the International Campaign for Tibet.



- action by theme, idea and subject;
- 2) To identify duplicated language;
- 3) To make proposals to the Preparatory Committee on the rationalization and restructuring of both the draft declaration and the programme of action and the possible merging of paragraphs whose elements belong together; this would help to simplify the text and present it in a manner which would make it negotiable.<sup>229</sup>

The group was given clear instructions that it had to provide explanations for each of its proposals to either delete or merge text. Moreover, it was specifically structured not to be a negotiating body, as such decisions could be made only by all states involved in the preparatory process. The group convened throughout the third and fourth day and then met with the remaining states on the fifth day to provide them with their proposals to revise the two draft texts. The UN report on the Second Preparatory Committee meeting specifically noted the role played by Brazil, Canada and Sweden at the group of 21. Concurrently with the work of the group of 21, EU states worked with Mexico to streamline the draft texts and offer suggestions for revisions.

With these various proposals in hand, states spent the second week of the meeting convening in two working groups, one for the draft declaration and another for the draft programme of action. Although the pace of work remained very slow, some limited progress was made, and by the end of the week, the two working groups had adopted a total of 38 paragraphs—24 by the working group on the draft declaration and 14 by the working group on the draft programme of action.<sup>230</sup> However, the adopted paragraphs addressed only the less contentious issues on the agenda, and consisted of general statements condemning the existence of racism and calls for states to eradicate it. Most of the adopted paragraphs from the declaration were those of the preamble. The more

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<sup>229</sup> World Conference against Racism, “Report of the Preparatory Committee on its Second Session,” A/CONF.189/PC.2/30.

<sup>230</sup> Ibid.

contentious issues related to the Middle East and reparations were left unresolved. For example, a paragraph on slavery and colonialism that had been discussed, but not adopted, read:

The World Conference recognizes that slavery, the slave trade, colonialism, and apartheid are major historical sources and manifestations of racism, racial discrimination, xenophobia and related intolerance, and that Africans and peoples of African descent, peoples of Asian descent and indigenous peoples and [sic] have been and continue to be victims of their consequences, and urges States and the international community to adopt appropriate remedial measures in order to halt and reverse the consequent marginalization, poverty, underdevelopment and socio-economic exclusion still affecting many such peoples in many parts of the world, in particular in developing countries.<sup>231</sup>

Similarly, a proposed paragraph indirectly addressing the Middle East read: “reaffirming that colonization by settlers and foreign occupation constitute sources, causes and forms of racism, racial discrimination, xenophobia and related intolerance.”

Western states generally sought to avoid discussion of these two issues at the Second Preparatory Committee meeting and for the time being, wanted to focus only on the less contentious issues. There were two reasons for this tactical approach. First, European Union states had yet to formulate a common position on the reparations issue as some states were more willing than others to compromise and offer a statement of apology for the slave trade. Naturally, the states least willing to offer an apology were among those that most heavily engaged in the practice—the United Kingdom, the Netherlands, Spain and Portugal. Second, European states appeared to want to ‘run out the clock’ on the issue by delaying discussion until the Conference date drew nearer in the hope that states in Africa and the Middle East would be forced to compromise on their demands due to time constraints. As an official from DFAIT observed:

Notwithstanding that resolution of the difficult issue of compensation/redress/remedies/positive measures will be essential if the WCAR in Durban is to be successful, there was limited formal discussion of it at this second PrepCom

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<sup>231</sup> Ibid.

meeting in Geneva. This was not altogether surprising given the numerous other issues to be grappled with and the understandable desire of many western delegations to tackle the less contentious issues first. Efforts to address the only two paragraphs that arose which touch on this issue were resisted by the EU, which even at this late stage has not formulated a common position on this and many other issues.<sup>232</sup>

Canada further suggested that the European Union's "inability to engage at this point is already being characterized by some delegations and NGOs as a lack of political will."

The EU "risks losing whatever moral ground it has going into the conference" and "also risks forfeiting the advantage of unified positions with key partners who ostensibly have less at stake politically and will not be willing [to] accept blame for EU intransigence."<sup>233</sup>

Notwithstanding Canada's professed concern for Europe's "moral ground," it is important to note that Canada's position was not that different from the various positions being debated within the European Union:

The position of Canada with respect to compensation for the historical injustices of slavery and colonialism is that it is not appropriate. We acknowledge and regret that colonialism and slavery were historical sources and manifestations of racism, such acknowledgement (e.g. through education programmes, public awareness campaigns, museums, monuments) is essential to reconciliation and to ensuring these injustices are not repeated, however, we consider that resources should be used in forward-looking, comprehensive programmes/activities aimed at eradicating racism in all its contemporary forms.<sup>234</sup>

Other issues on the agenda remained divisive as well. States were unable to agree on a list of victims to be identified in the declaration. A proposed sentence referring to racism, racial discrimination, xenophobia and related intolerance also identified "religious intolerance, anti-Arabism, anti-Semitism, Islamophobia, Negrophobia" as additional forms of intolerance to be condemned. Some Arab and Muslim states insisted that any reference to anti-Semitism be followed by the phrase "including Zionist

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<sup>232</sup> Department of Foreign Affairs and International Trade, "World Conference against Racism (WCAR): Second PrepCom – Compensation/Reparations/Redress/Remedies/Positive Measures," (June 1, 2001).

<sup>233</sup> Ibid.

<sup>234</sup> Department of Foreign Affairs and International Trade, "WCAR – HOM Meeting Director of Substance Team for WCAR – Input for Meeting," (June 8, 2001).

practices” on the basis that the Palestinians were also of Semitic origin. India continued its opposition to any reference to the Dalits as victims of racism. Meanwhile, African states, upset at the refusal of Western states to compromise on the issue of reparations, suggested that the list of victims should contain a hierarchy that placed Africans and people of African descent at the top.

Thus, the limited accomplishments of the Second Preparatory Committee meeting were overshadowed by the divisiveness that remained between states and the large number of issues that were left unresolved. As a result, states agreed near the end of the Second Preparatory Committee meeting to schedule a third meeting, which was held in late July and early August. In addition, states agreed that the group of 21 would meet throughout June to continue its efforts to streamline the draft texts. In her closing address to the Second Preparatory Committee meeting, Mary Robinson reflected on the “worryingly slow” progress and asked of states: “Can we dare hope that the third session will manage to reach a consensus on at least 80 to 85 per cent of the proposals? I recall that I said in my opening remarks to the [meeting] that the clock is ticking. That is even more the case now and if we are to have a successful conference we must make faster and better progress.”<sup>235</sup>

Both the Canadian delegation and the Canadian civil society groups in attendance were very active at the Second Preparatory Committee meeting, given the circumstances. Canada’s selection as a member of the group of 21 gave it some additional leverage to shape the negotiations, and Canada continued to work with the group of 21 in the weeks following the Second Preparatory Committee meeting. Canada also made a constructive

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<sup>235</sup> United Nations Press Release, “Preparatory Meeting for World Conference against Racism ends in Geneva,” (June 1, 2001).

effort to address the question of identifying victims. A Canadian proposal on the issue contained separate paragraphs that each identified a particular group, such as Jews, Muslims, Arabs, Africans and people of African descent, Asians and people of Asian descent, and Roma/Sinti and Travellers. The proposed paragraphs acknowledged that each group has been impacted by racism and called for greater awareness and preventative measures at the national and international level.<sup>236</sup> Given the challenging political climate in which states negotiated these issues, the Canadian suggestion was a helpful effort to address the concerns of many states and impacted groups.

Meanwhile, Canadian civil society groups were also very active at the meeting. The Canadian delegation held various formal and informal meetings with Aboriginal organizations and civil society groups, during which time government officials provided briefings about diplomatic developments and responded to questions asked. As was the case at previous Geneva meetings, Aboriginal organizations, Canadian NGOs, and Canadian youth groups did not always see eye-to-eye with each other and with the government, and thus experienced their share of challenges in coordinating their efforts and lobbying the government to adopt positions favourable to their interests. Issues related to the flow of information and accessibility of the Canadian government continued to be raised, particularly following the last-minute decision to organize a Third Preparatory Committee meeting, which raised questions about NGO funding and access to the meeting. Questions were also raised about the government's ambiguous commitment to implement a domestic plan of action to combat racism in Canada.

Despite these challenges, several participants in attendance described the

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<sup>236</sup> Department of Foreign Affairs and International Trade, "WCAR 2<sup>nd</sup> PrepCom – Report on Days 1 and 2," (May 22, 2001).

meetings favourably. A report on the Second Preparatory Committee meeting by Karen Mock, the chair of the Civil Society Advisory Committee, noted that the “staff of the Mission, our negotiators, and the staff of the Canadian Secretariat who attended were just wonderful, keeping track of everyone, always accessible, and ensuring that we all got as much information as possible.”<sup>237</sup> In a separate report, Donna Scott, a representative from the Saskatchewan Human Rights Commission described the government meetings by noting that the “opportunity to be briefed and ask questions [was] particularly useful.”<sup>238</sup> Another report by Gerald Gall, a member of the Civil Society Advisory Committee, commented that the “Canadian contingent of NGOs was briefed regularly on the detailed conduct of negotiations, was encouraged to provide input to the Canadian negotiating team and to freely participate in caucuses and other events surrounding the official negotiations. The Canadian NGOs were treated with hospitality and respect at the Canadian Mission and throughout by the Canadian negotiating team.”<sup>239</sup>

The Canadian contingent of Aboriginal organizations and civil society groups also used the meeting to network with international NGOs. Mock indicated that there was a “strong Canadian presence” within the global civil society community, and Canadian groups actively participated in various meetings with international NGOs to discuss a range of issues, such as those concerning Aboriginal peoples, Africans and people of African descent, Asians and people of Asian descent, youth, and many others.<sup>240</sup> Scott

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<sup>237</sup> Karen Mock, “Report on the Geneva Prep Com and Beyond.” (June 8, 2001).

<sup>238</sup> Donna Scott, “Report to Canadian Heritage RE: Second Session of the WCAR Preparatory Committee, May 21 to June 1, 2001, Geneva,” (Undated).

<sup>239</sup> Gerald Gall, “Report to the Government of Canada: Second PrepCom in Preparation for WCAR,” (Undated).

<sup>240</sup> Mock, “Report on the Geneva Prep Com and Beyond.”

noted that the “Canadian NGOs also found the opportunity to network useful. It allowed us to share information and helped us to understand how we might better support each other. Canada’s NGOs plan to continue to communicate with each other, both in the time leading to the World Conference, and following, in order to be part of any action plan Canada or the world adopts.”<sup>241</sup> Chief Margaret Penasse-Mayer of the Nipissing First Nation noted that as an:

indigenous representative from Canada, I attended Indigenous meetings that took place everyday at 6:30 p.m., and also on May 24th, we had a working meeting regarding the wording of the Indigenous paragraphs for half a day. There was also another meeting of Indigenous Caucus on Saturday, May 26th to review the NGO document and again to review the indigenous section of the Declaration and the Plan of Action documents. The Indigenous caucuses also had a meeting with the European Union to address issues and concerns of the caucus.<sup>242</sup>

The Canadian delegation also hosted a youth caucus that was attended by Mary Robinson and many youth delegates from Canada and abroad. In general, the Canadian youth caucus worked diligently with youth caucuses from other countries to help coordinate the draft declaration and programme of action for the parallel youth forum scheduled for late August. In addition, Canadian youth continued to prepare for Canada’s domestic national youth forum, scheduled to be held in Ottawa from July 13-15, 2001. The chair of the Canadian Youth Forum, Asha Noel, noted that the “Canadian Youth Caucus accomplished a great deal in terms of developing a draft agenda and proposal for the National Youth Gathering/PrepCom.”<sup>243</sup>

In the end, the limited progress made by states at the Second Preparatory Committee Meeting in negotiating the draft declaration and programme of action

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<sup>241</sup> Scott, “Report to Canadian Heritage.”

<sup>242</sup> Chief Margaret Penasse-Mayer, “Second Session of the Preparatory Committee (PrepCom),” (Undated).

<sup>243</sup> Asha Noel, “Report: 2<sup>nd</sup> PrepCom, May 21 – June 1, 2001, World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerances,” (June 15, 2001).

highlighted the seriousness of the divisions between them. The challenges facing states was magnified by the fact that they had only a shrinking amount of time with which to work if they hoped to go to Durban with a relatively complete and solid foundation for discussion. In this context, Canada's ability to shape the outcome was limited, but it did offer several useful suggestions, particularly during the discussions that sought to identify lists of victims. Canada's work as a member of the group of 21 was also productive and continued in the weeks between the second and third preparatory meeting. Meanwhile, the government's relations with Aboriginal organizations and civil society groups continued along the path established at previous Geneva meetings. While the government's decision to fund more than two dozen Aboriginal organizations and civil society groups to attend served as an indication of the government's willingness to include diverse voices from outside government, disagreements between them and the government remained on several key issues on the agenda.

### **6.3 - The Group of 21: Between the Second and Third Preparatory Committee Meetings**

The Group of 21 met throughout the month of June to continue its work of streamlining the lengthy texts before them. No NGOs were granted access to the meetings of the group. Although the smaller membership of the group permitted it to have a more focused discussion than was possible at the plenary, the group nonetheless faced challenges due to the limited nature of its mandate and the differences that remained between states. Its work proceeded slowly at first, but ultimately, it made significant progress in shortening the texts and better preparing them for negotiation at



the Third Preparatory Committee Meeting.

During the first week of the group's meetings, it reviewed almost the entire draft declaration and made several suggestions to cluster similar paragraphs together in order to edit them into a shorter and more manageable text. However, many of these suggestions could not be agreed upon. Indeed, the very first suggestion to merge two similar paragraphs addressing colonialism resulted in a lengthy debate that was resolved only when the chair of the group decided to adjourn the group and seek greater clarification about its mandate. When it was clarified that none of the decisions made by the group of 21 were final and that all texts remained open for negotiation, states were able to proceed more effectively, albeit in a manner described by Canada as "fits and starts."<sup>244</sup> Concurrently, as a result of a Canadian suggestion, some states of the group of 21 formed a smaller group to begin discussion of the draft plan of action. By the end of the week, this smaller group had completed a review of the plan of action and proposed deletion of 105 paragraphs.

The second week was, according to Canada, "in some ways better than the previous one" although states continued to negotiate in a "very difficult atmosphere."<sup>245</sup> During this time, states made good progress toward completing a read of the entire draft declaration and had trimmed the text down to approximately 20 pages. Disagreements remained about the ordering of the paragraphs. Some developing world states wanted paragraphs addressing globalization to appear at the beginning of the declaration, while

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<sup>244</sup> Department of Foreign Affairs and International Trade, "Report – WCAR Group of 21 – Week of 6-8 June," (June 8, 2001).

<sup>245</sup> Department of Foreign Affairs and International Trade, "WCAR Report of the Group of 21 (11-15 June), June 15, 2001).

Western states felt that doing so would shift the focus toward broader global economic matters and away from issues of racism and racial discrimination. Canada described this specific debate as “in many ways, indicative of the main challenge we face in this meeting and in the [Preparatory Committee meetings]—an ongoing battle to keep the discussions focussed on racism and the documents short and forward looking.” Additionally, states from Africa and the Caribbean continued to emphasize the reparations issue and insist that the documents clearly acknowledge the causal link between the slave trade, colonialism and the present-day political and economic situation in Africa and the Caribbean. As Canada suggested, “this is probably in response to the lack of desire or ability of the EU to engage substantively on these issues.”<sup>246</sup>

While these debates continued into the third week, states continued to make progress, working in a “business-like manner” and completing a review of the entire draft declaration and two-thirds of the draft programme of action.<sup>247</sup> The ordering of paragraphs continued to be a point of contention, although states ultimately decided on a list of victims that referred to “Africans and people of African descent followed by indigenous peoples, migrants, refugees, Mestizos, other victims, women and children and multiple discrimination.” This decision occurred over objections from Western states against what Canada called “developing a hierarchy of hurt or any other list based on a wholly subjective method.”<sup>248</sup>

Due to time constraints, the group of 21 stopped meeting before it was able to

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<sup>246</sup> Ibid.

<sup>247</sup> Department of Foreign Affairs and International Trade, “WCAR – Report of the Group of 21 (18-22 June), (June 22, 2001).

<sup>248</sup> Ibid.

complete a reading of the remaining portions of the programme of action which were left to be negotiated at the Third Preparatory Committee Meeting in late July and early August. Nonetheless, the group made significant progress in streamlining the draft texts and easing the workload of the plenary in the coming weeks. As a Canadian delegate involved in the group said of its work, “I think it was helpful ... If that hadn’t happened, then we would have ended up with a document in August that would have been hundreds of pages of square brackets, and you just can’t negotiate that in a large group.”<sup>249</sup>

#### **6.4 - The Third Preparatory Committee Meeting**

The fact that states needed to quickly schedule a third meeting of the preparatory committee meeting in the first place was a testament to the divisions between them and the significant amount of work that remained to be done in the final weeks before states assembled in Durban in late August. The last-minute decision to hold the meeting created logistical challenges for both states and non-state actors. Because Canada had set aside a fixed amount of funding for Aboriginal organizations and civil society groups to participate in the World Conference, any funding for these groups to attend the third meeting would have to come at the expense of money designated to fund travel to Durban to attend the World Conference. For this reason, Canada provided funding for only a few (seven) domestic groups to attend, although many others made the trip at their own expense. Canada also sent a slightly smaller delegation to the meeting, which consisted of six DFAIT officials, two Heritage officials, one Justice official, and one official from Indian Affairs and Northern Development. At the international level, attendance was

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<sup>249</sup> Personal interview with Deborah Chatsis, 1st Secretary, Permanent Mission of Canada to the UN, Geneva. (September 12, 2012).

similar to the two previous preparatory committee meetings. One hundred and thirty-nine states attended, along with representatives from Palestine and a variety of UN human rights bodies and specialized agencies, intergovernmental organizations, national organizations, and others.

Once again, the meeting got off to a slow start, as states got bogged down in a debate about NGO accreditation.<sup>250</sup> In a close and controversial vote that split mostly along North-South lines, states decided to deny NGO accreditation to the International Lesbian and Gay Alliance. States also established two working groups to address the draft declaration and draft programme of action, respectively. The chair of the group of 21 presented its recommendations to these two groups for their consideration. In addition, three working groups were established to address key contentious issues—one group to address the Middle East, another on issues relating to the past, and a third on the listing of victims. By this stage in the preparatory process, the fault lines of the debate had been clearly established and thus the major contentious issues on the agenda remained divisive and unresolved. For example, several paragraphs containing language that assigned a causal link between historical slavery and colonialism and present-day political and economic challenges in Africa and the Caribbean remained bracketed for further discussion. But states did make considerable progress agreeing on less contentious language and ultimately adopted 138 paragraphs of text at the Third Preparatory Committee meeting—57 in the declaration and 81 in the programme of action. Many of these paragraphs addressed substantive issues concerning Africans and people of African descent, Asians and people of Asian descent, Roma/Gypsy/Sinti/Travellers, Mestizo

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<sup>250</sup> World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, “Report of the Preparatory Committee on its Third Session,” A/CONF.189/PC.3/11.

populations, migrants and refugees.<sup>251</sup>

For example, states adopted several paragraphs addressing Africans and people of African descent, including one that “recognize[d] that people of African descent have for centuries been victims of racism, racial discrimination and enslavement and of the denial by history of many of their rights, and assert that they should be treated with fairness and respect for their dignity and should not suffer discrimination of any kind.” States also agreed to a paragraph addressing contemporary forms of slavery, noting that they “strongly condemn the fact that slavery and slavery-like practices still exist today in parts of the world and urge States to take immediate measures as a matter of priority to end such practices, which constitute flagrant violations of human rights.” Further, while the issue of reparations remained contested, states agreed to language “request[ing] States, supported by international cooperation, as appropriate, to consider positively concentrating additional investments in health-care systems, education, public health, electricity, drinking water and environmental control, as well as other affirmative or positive action initiatives in communities of primarily African descent.”<sup>252</sup>

States also agreed to language “recogniz[ing] that in many parts of the world, Asians and people of Asian descent face barriers as a result of social biases and discrimination prevailing in public and private institutions and express our commitment to work towards the eradication of all forms of racism, racial discrimination, xenophobia and related intolerance faced by Asians and people of Asian descent.” States adopted several paragraphs addressing Roma/Gypsies/Sinti/Travellers, including one that

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<sup>251</sup> Ibid.

<sup>252</sup> Ibid.

“encourages States to adopt appropriate and concrete policies and measures and to develop implantation mechanisms, where these do not already exist, and exchange experiences, in cooperation with representatives of the Roma/Gypsies/Sinti/Travellers in order to eradicate discrimination against them...” One paragraph addressing Mestizo populations noted that states “recognize the presence in many countries of a Mestizo population of mixed ethnic and racial origins and its valuable contribution to the promotion of tolerance and respect in these societies, and we condemn discrimination against them, especially because such discrimination may be denied owing to its subtle nature.”<sup>253</sup>

States also adopted several paragraphs addressing both migrants and refugees.

One paragraph on migrants:

note[s] with concern and strongly condemn[s] the manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against migrants and the stereotypes often applied to them, and reaffirm the responsibility of States to protect the human rights of migrants under their jurisdiction and the responsibility of Governments to safeguard and protect migrants against illegal or violent acts, in particular acts of racial discrimination and crimes perpetrated with racist or xenophobic motivation by individuals or groups, and stress the need for their fair, just and equitable treatment in the society and in the workplace.<sup>254</sup>

A paragraph on refugees:

urges States to comply with their obligations under international human rights, refugee and humanitarian law relating to refugees, asylum-seekers and displaced persons, and urges the international community to provide them with protection and assistance in an equitable manner and with due regard to their needs in different parts of the world, in keeping with principles of international solidarity, burden sharing and international cooperation to share responsibilities.<sup>255</sup>

In addition, states adopted several paragraphs addressing indigenous peoples.

These paragraphs were controversial because they accepted the qualifications used at the

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<sup>253</sup> Ibid.

<sup>254</sup> Ibid.

<sup>255</sup> Ibid.

Regional Conference of the Americas. Indeed, many of the paragraphs adopted at the Chile conference were transferred verbatim into the declaration and programme of action. Thus, references to indigenous peoples qualified the meaning of the term “peoples” in a manner that stripped the term of its meaning under international law and thus situated indigenous rights entirely within the framework of each sovereign state’s domestic laws and policies. As the International Indian Treaty Council (IITC) said of the consensus among states about the status of indigenous rights:

Indigenous Peoples were still in struggle in the United Nations over the basic recognition of their collective rights as peoples. Worse, the WCAR mis-stated international standards recognizing Indigenous Peoples as the owners of their traditional lands, territories and natural resources. It declared Indigenous lands and natural resources subjects of domestic law, “encouraging” (but not requiring) compliance with domestic and not international standards, and only “whenever possible.”<sup>256</sup>

Amidst the shortcomings of the language addressing the rights of indigenous peoples were a few bright spots, such as a positive reference to the creation of the UN Permanent Forum on Indigenous Issues. Overall, however, the widely-held perception among most of the indigenous peoples who participated in the World Conference was that the entire event marked a major step backwards in their struggle for human rights and equality under the law.

Regarding the Middle East, the issue continued to loom large over the preparatory process and states were not able to agree on any language addressing the situation or whether the issue belonged on the agenda in the first place. Several controversial and bracketed paragraphs continued to circulate during the negotiations. These paragraphs included language that referred to the “Zionist movement, which is based on racial superiority” and “Zionist practices against Semitism.” States debated whether to refer to the Holocaust with a capital H or a lower-case H, and whether to refer to it in the singular

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<sup>256</sup> Saldamando, “The World Conference against Racism.”

or the plural (i.e. Holocaust vs. holocausts).<sup>257</sup> In her concluding remarks to the Third Preparatory Committee Meeting, Mary Robinson addressed these issues, noting the need for:

Understanding of the historical wounds of anti-Semitism and of the Holocaust, on the one hand, and of the accumulated wounds of displacement and military occupation on the other. Two fraternal peoples are locked in conflict, and we must help them deal with their mutual assertion of the right to exist and prosper, and with perceptions of inequality and injustice.

Seen from these perspectives, the pronouncements of the Conference will require careful negotiation, and I appeal for understanding and cooperation on the part of everyone. I am pleased that in the current discussions everyone understands that there can be no return to an issue settled by the General Assembly, the former Zionism-racism problem. This is encouraging in itself.<sup>258</sup>

Although Robinson intended for such remarks to serve as a bridge between divided delegates by acknowledging the concerns of both Western states and developing world states, her remarks were not well received by Western states and many Jewish organizations, which felt that she had drawn a moral equivalence between Israel's treatment of the Palestinians and Nazi Germany's treatment of Jews. As a result, Robinson's remarks had the impact of only throwing more fuel on the fire.

Following the conclusion of the Third Preparatory Committee meeting, the United States announced that it would be sending only a lower-level delegation to the World Conference and that it was strongly considering the possibility of boycotting the World Conference altogether. While the United States objected to the inclusion of both the reparations issue and the Middle East, it was particularly unhappy with the discussions of the latter. On August 24, 2001, President George W. Bush stated that "We have made it very clear ... we will not participate in a conference that tries to isolate Israel and

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<sup>257</sup> World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, "Draft Declaration: Proposals made by the Group of 21," A/CONF.189/PC.3/7.

<sup>258</sup> United Nations Press Release, "In Statement to Preparatory Committee of Racism Conference, Human Rights Commissioner Mary Robinson Reviews Progress," (August 9, 2001).



denigrates Israel.”<sup>259</sup>

Within Canada, there were similar debates about the content of the World Conference and the nature of Canada’s participation in the event. As the summer progressed, the Canadian media devoted greater coverage to the World Conference. The editorial boards of several newspapers discussed the possibility that Canada should boycott the Conference while several officials representing Aboriginal organizations and Canadian NGOs discussed particular issues relevant to their constituents. A *Globe and Mail* op-ed by Keith Landy, president of the Canadian Jewish Congress, “urge[d] Canada to continue its efforts to ensure that the WCAR will be a racism-free zone” while arguing that “should the anti-Semitic and anti-Israel attacks be part of the Durban agenda, however, Canada and like-minded nations must be prepared to re-evaluate their participation in a conference that could end up sanctioning the very racism it purportedly seeks to end.”<sup>260</sup> In another op-ed, David Matas, senior legal counsel to B’nai Brith Canada stated that “there is no legal basis on which to justify the anti-Israel and anti-Jewish resolutions under discussion for the WCAR. One can only attribute them to motivations that are themselves racist.”<sup>261</sup> In a response to Matas, John Farah, director of the National Council on Canada-Arab Relations, argued that the issue of Zionism was an appropriate topic for discussion at the World Conference:

To the extent that Zionism, through past and current Israeli policies, has injured, denied and deprived the indigenous Palestinian population of its human, legal and moral rights, it has deviated from the legitimacy conferred on it and must therefore stand to account ... To achieve peace, those extolling the virtues of Zionism must return the movement to its

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<sup>259</sup> Luisa Blanchfield, “Congressional Research Service Report for Congress. The 2009 UN Durban Review Conference: Follow-Up to the 2001 UN World Conference against Racism,” (November 20, 2008), 7.

<sup>260</sup> Keith Landy, “When the anti-Racists are Racist.” *The Globe and Mail*, July 18, 2001. A13.

<sup>261</sup> David Matas, “Zionism is not a Crime.” *The Globe and Mail*, July 30, 2001. A11.

original intent: a means of ensuring Jewish self-determination without forcing Palestinians to pay the price for it. Otherwise, Zionism will continue to attract allegations of illegality and racism.<sup>262</sup>

The issue of reparations and the Canadian position was also discussed in the Canadian media in the weeks preceding the World Conference. A *Toronto Star* article quoted African-Canadian activist Antoni Shelton saying that “the issue of reparations and economic equality is going to be the biggest issue for the African Canadian contingent in Durban.”<sup>263</sup> A feature article in *Now Magazine* discussed the issue of reparations and the World Conference against Racism in the context of Canada’s domestic history, noting the existence of slavery in pre-Confederation Canada and the more recent history of the razing of Africville, Nova Scotia, in the 1960s. Agnes Calliste, a professor at St. Francis Xavier University, highlighted some of the issues that she hoped Canada would address in Durban. “We can still see the effects of slavery today very clearly in Nova Scotia ... The black loyalists who fought with the British side in the American Revolution were promised freedom and land, but many of them did not get land. Some got land in isolated areas, and if you look at the Nova Scotian black communities today, you can see that some of them don’t even have paved roads.”<sup>264</sup>

Aboriginal leaders also discussed their views on the World Conference and the manner in which indigenous peoples had been addressed. In a *Globe and Mail* editorial, Ted Moses, the Grand Chief of the Grand Council of the Crees, spoke of the “cruel irony” in which “the United Nations has been engaged in deliberate racism against

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<sup>262</sup> John Farah, “When Zionism Turned Racist,” *The Globe and Mail*, August 7, 2001. A13.

<sup>263</sup> Ali Sharif, “Canadians split over reparations,” *The Toronto Star*, August 12, 2001. A6.

<sup>264</sup> Dalton Higgins, “Slaves in Canada.” *Now Magazine*, July 12, 2001. accessed April 23, 2014, from <http://www.nowtoronto.com/news/story.cfm?content=128151&archive=20,45,2001>.

indigenous peoples” by denying their status as peoples under international law and limiting their rights to only those decided by states and their respective domestic laws. As a result, “rather than pursuing the advancement of [indigenous] rights, the energies of indigenous peoples at the conference will be focused on preventing retrogressive measures.”<sup>265</sup>

Against the backdrop of the various issues and controversies surrounding the World Conference, the government of Canada was forced to consider the nature of its own involvement in the event. Amidst rumors that the United States would boycott the Conference—and subsequent confirmation that it would attend, but send only a lower level delegation headed by Michael Southwick, the deputy assistant secretary of state for international organizations—Canada publicly maintained that it had yet to reach a decision regarding the level of its own participation, but that it was nonetheless committed to attend the event in order to push back against language that it found unacceptable. On August 30, one day before the start of the World Conference, Canadian Foreign Affairs Minister, John Manley, announced that he would not attend the World Conference, and that Canada’s delegation would be led by Hedy Fry. The press release issued read, in part:

Canada is participating fully in this important conference. We are represented by a strong delegation led by Hedy Fry who, because of her portfolio responsibilities, is well placed to represent Canada and share with the international community our own experience in building a multicultural and tolerant society ... Canada feels it can make a positive contribution to the Conference and I continue to hope that the Conference can reach a renewed and forward-looking global commitment to eradicate racism.<sup>266</sup>

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<sup>265</sup> Ted Moses, “Antiracist, Except for Us.” *The Globe and Mail*, August 29, 2001. A11.

<sup>266</sup> Department of Foreign Affairs and International Trade, “Untitled Press Release.” (August 30, 2001, No. 57).

Although his office tried to downplay the significance of this decision, it was a clear indication that Canada had lost a lot of its faith in the ability of the World Conference to produce a satisfying outcome. At the same time, the decision not to boycott the World Conference altogether represented Canada's preference to nonetheless try to influence the outcome from within rather than simply withdraw altogether and let the agenda be shaped by others. In this sense, Canada's decision to attend was shaped by its longstanding policy of multilateral cooperation within the United Nations system. An additional consideration for Canada was its relationship with the African continent and, in particular, with South Africa. The decision to host a major international conference in South Africa only seven years following the end of apartheid was an important event for the country. That the conference focused specifically on the issue of racism only raised the stakes for South Africa and the importance that the host nation attached to the event. Thus, Canada's decision to participate was also motivated by a desire to maintain friendly relations with South Africa.

## **6.5 - Conclusion**

The months leading up to the World Conference against Racism were a difficult time for both states and non-state actors alike. Early efforts during the spring to establish the broad parameters of the agenda ultimately produced more discord than consensus. The first draft of the declaration and programme of action produced by Mary Robinson and the Office of the High Commissioner for Human Rights was a non-starter from the very beginning. The overwhelming view from developing world states was that the draft failed to take into consideration the issues that were most important to them. Even

Western states not eager to discuss the Middle East and the issue of reparations sensed that the Robinson draft was fatally flawed. This left states with no choice but to abandon the Robinson draft and begin anew, which meant that states had only a weak foundation for discussion. The result was a revised draft text of bloated length and little narrative coherence. Subsequent weeks and months of negotiations resulted in some progress in editing the text to a more manageable document, but occurred at the expense of tackling the most contested issues. Thus, states went to Durban with a half-completed document and the most divisive issues still on the agenda.

During this time, Canada continued to do what it could to rationalize the draft texts and work toward a consensus document. Canada's participation in the group of 21 helped to eliminate much of the duplicative language contained in the draft texts. Canada also worked to resist the efforts to revive the issue of Zionism as racism. However, Canada also refused to budge on its opposition to reparations for the slave trade and colonialism, and made no effort to remove the qualifying language addressing indigenous peoples. Regarding its relationship with Aboriginal organizations and Canadian NGOs, the Canadian delegation continued to maintain open lines of communication, but it was clear that these groups possessed limited ability to influence the government's priorities. With respect to the key issues on the agenda, the government's positions did not change during the preparatory process. However, Aboriginal organizations and Canadian NGOs did make productive use of the preparatory committee meetings insofar as it provided them with opportunities to work with one another to share information and form larger advocacy networks working toward common goals. But in the end, it was the government that set its own agenda during the international preparatory process.

## **CHAPTER 7: THE WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE**

As delegates from around the world travelled to Durban to put a good face on the event, it was clear to many that the World Conference against Racism was unlikely to produce meaningful consensus or serve as a foundation for subsequent national and international efforts to address the issues of racism, racial discrimination, xenophobia and related intolerance. Following months of difficult preparatory negotiations regarding the Middle East and the issue of reparations, many states—on all sides of the issues—approached the World Conference in a damage control mode. Though not explicitly stated, the goal for many was simply to reach an agreement containing the lowest common denominator language, and then to head home declaring victory.

Compounding the challenging environment facing states as they arrived for day one of the World Conference were the results of two parallel events that were held in Durban in the last week of August: The International Youth Summit and the NGO Forum. In theory, each event was intended to contribute, in part, to the promotion of a more transparent, accessible and democratic process of global governance by widening the circle of actors that participate in the process to include those outside of government. In turn, these additional actors strive to place new issues on the public agenda that governments prefer not to discuss and also to reframe issues on the agenda in ways that challenge the dominant perspective advanced by governments. While the Youth Summit and the NGO Forum did bring together, respectively, hundreds of youth and thousands of NGO officials, neither event succeeded as planned. Both events were marred by procedural and substantive shortcomings that resulted in each gathering producing a final declaration and programme of action that did more to promote conflict than they did to

combat it. As a result, both events only added to the divisive political environment that existed throughout the week-long gathering in Durban.

### **7.1 - The International Youth Summit**

The World Conference against Racism Youth Summit was a two-day event held in Durban from August 26 to 27, 2001.<sup>267</sup> The decision to hold a youth summit as part of the World Conference emerged as a result of the August 2000 youth forum, which was organized by Canada and held at the Canadian pavilion at Expo 2000, in Hannover, Germany. Canada played a central role in organizing the Youth Summit by providing both financial and organizational resources. For Canada, the Youth Summit was intended to serve as a component of the government's broader effort to include youth in politics at both the domestic and international level. Approximately 700 youth participated in the event, the majority of whom represented Western states. The government of Canada sponsored 14 Canadian youth to attend. Canadian youth participants represented a diverse cross-section of the country and included Aboriginal peoples, African-Canadians, Arab and Muslim-Canadians, and Francophone Canadians, among others. Several of these individuals had participated in the regional and national domestic consultation process and attended some of the international preparatory meetings in Santiago and Geneva.

In a keynote address to the Youth Summit, Hedy Fry referred to the event as a “powerful example of how Governments and the UN have responded to your call for youth participation” and that governments around the world “need to hear how you want to tackle issues such as hate on the internet, globalization, the role of the media,

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<sup>267</sup> International Youth Summit Declaration and Plan of Action, (August 26-27, 2001).

education, health, [and] poverty.” According to Fry, Canada felt that it was “essential that the intergovernmental conference hear your message as well.”<sup>268</sup> Mary Robinson also addressed the Youth Summit with similar remarks about the importance of youth involvement in the World Conference and in the struggle against racism throughout the world.

Following these remarks, youth participants devoted the next two days to the task of drafting their own Youth Declaration and Programme of Action. The youth summit was organized around several panels and thematic working groups in which participants discussed and debated each of the various issues on the agenda. Eight thematic working groups were established to address the following issues:

- 1) Minority Rights, Human Rights and Citizenship
- 2) Colonialism, Foreign Occupation and New Forms of Apartheid
- 3) Justice
- 4) Health and the Environment
- 5) Education, Media and New Information Technologies
- 6) Globalization
- 7) Young Women and Multiple Forms of Discrimination
- 8) Slavery and Reparations<sup>269</sup>

As the above list illustrates, the Youth Summit addressed many of the same issues addressed by states at the World Conference. In particular, the issue of slavery and reparations was an especially important topic for the Youth Summit, as was the Middle East, which participants discussed as part of the second agenda item addressing colonialism, foreign occupation and new forms of apartheid. The Youth Summit also addressed a variety of issues that states could not agree to discuss, including the issue of caste in India and neighbouring countries; the political status of Tibet; political and

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<sup>268</sup> Government of Canada, “Speaking Notes for the Honourable Hedy Fry, P.C. M.P. Secretary of State (Multiculturalism)(Status of Women),” (August 27, 2001).

<sup>269</sup> International Youth Summit Draft Program, (August 9, 2001).



military conflicts in Sudan, Swaziland, and the Democratic Republic of the Congo; the United States embargo of Cuba, and institutional reform of the United Nations, among other issues. Additionally, the Youth Summit discussion of slavery and the slave trade offered some acknowledgement of the role played by states outside of Western Europe and North America. The Youth Summit discussion of the Middle East contained language strongly critical of Israel and far beyond what states could accept at the World Conference.

The Youth Summit was also hindered by logistical challenges related both to organizational capacity and time constraints. Some youth participants complained that too many adults played too active a role in the process, thus marginalizing the input of the youth involved. The Youth Summit was preceded by youth organizing events at the international preparatory committee meetings in Geneva, as well as at the various regional preparatory meetings in Europe, the Americas, Africa and Asia. In addition, national youth preparatory meetings were held in several countries, including Canada. Despite these preparatory efforts, youth participants in Durban were unable to resolve all negotiations about the content of the Youth Declaration and Plan of Action during the limited time allocated. As a result, negotiations continued behind the scenes throughout the following week and the final documents were not released until September 4, 2001. Understandably, some youth participants responded negatively to this development and perceived a lack of transparency and accountability in the negotiation process. From a procedural level, there were many problems with the organization of the Youth Summit.

Regarding the substantive content of the Youth Declaration and Plan of Action, participants did not shy from using strong language to address the most controversial

issues on the agenda. The language used satisfied some participants, but left others feeling disappointed with the one-sided approach taken to some issues.

On the Middle East, one paragraph in the Youth Summit:

demand[ed] from state actors who continue to oppress and subject peoples under foreign occupation, colonialism and new forms of apartheid, particularly Israel to cease and desist from the excessive and lawful [sic] use of force against Palestinian civilians, especially children and young people, we demand from the United Nation member states provide immediate measures including economic and trade sanctions, embargoes, cutting off all sporting, diplomatic and other ties until the abolishment of foreign occupation, colonialism and new forms of apartheid.<sup>270</sup>

On the issue of slavery and the slave trade, the text “demand[ed] that perpetrator nations mainly in the north, involved in slavery, slave trade foreign occupation and colonialism formerly [sic] apologies [sic] to victims and descendents with a just and fair compensation and reparations such as the immediate withdrawal from the occupied territories, the right of return to peoples own land, social development programs, cancellation of the foreign debt and any other form of reparations considered appropriate by victims.” In a brief recognition of the global scale of the slave trade, the Youth Summit document also stated that “All states that were actively involved in slavery (notably the United States, Western Europe and Middle Eastern countries) or colonial practices must compensate enslaved peoples (and their descendents) for the damages inflicted upon them and must create, implement, financially support programs designed to empower these peoples.”<sup>271</sup>

Regarding some of the other issues on the agenda, the Youth Summit recognized “that the people of Tibet continue to suffer institutionalized forms of discrimination under the Chinese regime.” It expressed “solidarity with the people of Palestine, Southern

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<sup>270</sup> International Youth Summit Declaration and Plan of Action, (August 26-27, 2001).

<sup>271</sup> Ibid.

Sudan, Swaziland” and “with the people of Cuba,” and it called on the United States to lift its economic embargo of Cuba. It noted that “the war in the Democratic Republic of Congo and in other parts of the African Continent has destabilized and restricted growth in the entire African Continent.” It called on the global community to “put pressure on the government of Afghanistan to demand the rights of human rights workers particularly women.” Regarding the Dalits and the caste system, the Youth Summit “repudiate[d] the systematic and continuous discrimination faced by the Dalits, and other significant groups in the world population (260 millions in South Asia)” and noted that “Dalit people have been subjected to discrimination based on their work, descent, caste system for a long period, and as a result are suffering from humiliation based on various forms of castism and untouchability and gross violation of their human rights in India and in many other countries in the Asian region.”<sup>272</sup> Thus, the Youth Summit addressed many issues that states were unable to address at the World Conference due to the preference of certain states to oppose any effort to discuss political questions that they deemed to fall within their domestic jurisdiction and outside of the agenda of the Conference.

In the end, however, Canadian youth participants generally found the Youth Summit to be less productive and rewarding than they had hoped. Although they found the experience educational and appreciated the opportunities it created for networking with other youth in Canada and abroad, the summit’s organizational challenges and heated debate on some issues weighed heavily on the overall experience. Some of their experiences were subsequently recorded in an issue of *Tiny Giant Magazine*, a

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<sup>272</sup> Ibid.

publication produced by the Students Commission of Canada.<sup>273</sup> One Canadian participant observed that “many youth identified problems with the Youth Summit” such as “the perception that the Youth Caucuses was being lead by a small group of individuals, who were concerned with only their agenda; that there were not enough resources for translation; that one day was not enough time to formulate a youth declaration; [and] that too many adults interfered and attended the youth summit.” Another Canadian youth said that the Youth Summit was “very disorganized and a disappointment on some levels.”<sup>274</sup> A third participant noted that “many youth were sadly disappointed about the lack of resources and time for the Youth Summit.”<sup>275</sup>

The Canadian government expressed a similar sense of being let down by the Youth Summit. According to an August 29 report from the Canadian government delegation, the “youth gathering was not a success. It was dominated by the Palestinian issue; the Israeli delegation walked out on the proceedings, and no agreement was reached on a declaration.”<sup>276</sup> Although, as mentioned, delegates did eventually reach an agreement on a youth declaration and plan of action, the week-long delay in producing the text, along with other procedural shortcomings and the contentious language used to discuss the Middle East resulted in the Youth Summit failing to live up to the hopeful expectations of its organizers. From the point of view of both the Canadian government and many of the Canadian youth participants, the Youth Summit was a missed

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<sup>273</sup> The Students Commission, *Tiny Giant Magazine*, (August 31-September 7, 2001). Accessed April 22, 2014, <http://www.tgmag.ca/ywc/africa.html>.

<sup>274</sup> Ibid.

<sup>275</sup> Ethel Farrales, “Beyond WCAR,” *Tiny Giant Magazine*, (Undated). Accessed April 22, 2014, [http://www.tgmag.ca/ywcpr\\_e/vwcar\\_e.htm](http://www.tgmag.ca/ywcpr_e/vwcar_e.htm).

<sup>276</sup> Department of Foreign Affairs and International Trade, “WCAR – Report on Activities to 29Aug01,” (August 29, 2001).

opportunity.

## 7.2 - The NGO Forum

While the Youth Summit proved to be divisive and beset by various organizational and substantive challenges, it was a fairly small and contained event that made little splash among governments and the media. By contrast, the procedural challenges and polarized debate that occurred throughout the NGO Forum made international headlines. Although the NGO Forum addressed a wide variety of topics, it devoted considerable attention to the Middle East and advanced a distinctly one-sided narrative of the issue. More problematically, anti-Semitic literature—such as *The Protocols of the Elders of Zion*—was circulated at the event and Jewish participants were subjected to anti-Semitic verbal assaults. In addition, the adoption of the 473 paragraph NGO Forum Declaration and Programme of Action<sup>277</sup> was marred by procedural flaws and occurred late in the event after most NGO officials had left. Only about 100 individuals were present at the adoption of the text, prompting complaints that the document represented the views of only a small segment of civil society. Due to the language used to characterize Israel, Mary Robinson refused to endorse the NGO Forum Declaration and Programme of Action and declined to recommend it to states for their consideration at the World Conference. The NGO Forum thus ended in complete discord. Among Canadian participants, it produced strong divisions within the NGO community on the issues of whether the NGO Forum could be considered a success and whether Canada should have withdrawn from the World Conference in protest.

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<sup>277</sup> WCAR NGO Forum Declaration and Programme of Action, (September 3, 2001).

The NGO Forum was held in Durban at the Kingsmead Cricket Ground from August 28 to September 1, 2001 and was attended by approximately 3,000 NGOs from around the world, although the majority came from Western states. The NGOs in attendance included many of the major international human rights groups, such as Amnesty International, Human Rights Watch and Oxfam, as well as many smaller organizations. Canada provided financial aid for 64 Aboriginal organizations and Canadian NGOs to attend. A few dozen other Canadian civil society groups attended at their own expense, bringing the total number of Canadian domestic groups in attendance at approximately 100. Collectively, the Canadians groups in attendance represented a wide cross-section of Canadian society. Among those present at the NGO Forum were the Assembly of First Nations, the Métis National Council, the Congress of Aboriginal Peoples, the Canadian Jewish Congress, B'nai Brith Canada, the Canadian Arab Federation, the Canadian Council of Muslim Women, the African-Canadian Legal Clinic, the Jamaican Canadian Association, the Canadian Hispanic Congress, the Canadian Ethnocultural Council, the Canadian Labour Congress, the Canadian Union of Public Employees, the Canadian Auto Workers Union, the National Action Committee on the Status of Women, the National Association of Women and the Law, the United Nations Association of Canada, the Filipino-Canadian Youth Alliance, the Ukrainian Canadian Congress, the National Congress of Italian Canadians, the Portuguese Canadian National Congress, the National Association of Japanese Canadians, the Federation of Korean Canadian Association, the Chinese Canadian National Council, and Equality for Gays and Lesbians Everywhere.

The agenda of the NGO Forum was broadly similar to that of the Youth Summit

and the World Conference itself. Among the issues addressed by NGOs were the Middle East, the trans-Atlantic slave trade and colonialism, indigenous peoples, Africans and people of African descent, Asians and people of Asian descent, Jews, Arabs, Muslims, migrants, refugees and internally displaced persons, among others. Like the Youth Summit, the NGO Forum also addressed issues that states did not wish to discuss, such as the Dalits and the caste system in India and neighbouring countries, and the issue of Tibet.

In order to structure the proceedings, NGO participants were organized into various caucuses, each designed to represent a particular group or thematic issue.<sup>278</sup> The caucuses represented racial and ethnic groups such as indigenous peoples, Africans and people of African descent, Asians and people of Asian descent, Roma, Dalits, Jews, Arabs and Palestinians, as well as other groups, such as women, youth, and migrants. Thematic caucuses addressed issues such as labour, criminal justice, health, HIV/AIDS, poverty, the media, and the environment, among others. Although this organizing principle was useful in allowing different groups to focus on the issues that mattered most to them, it also had the impact of somewhat inhibiting dialogue between different caucuses. The NGO Forum was also organized around a series of panels and workshops, in which members of the various caucuses were given opportunities to network with one another, make public presentations about issues impacting their communities, distribute pamphlets and information booklets, and work to help draft the NGO Forum declaration and plan of action. In addition, individual NGOs were able to set up small tents and booths in the plenary to distribute information to interested participants.

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<sup>278</sup> Durban/NGO Program, (August 9, 2001), accessed April 22, 2014, <http://www.icare.to/prepcom3/ngofpgm1.htm>.

Canadian NGOs were active participants in many of the workshops, panels and caucus groups at the NGO Forum. For example, Canadian Jewish groups played a leading role within the Jewish Caucus, and Karen Mock, from B'nai Brith Canada, was a co-chair of the thematic commission addressing anti-Semitism. Margaret Parsons, of the African-Canadian Legal Clinic, and Sandra Carnegie-Douglas, of the African-Canadian Coalition against Racism, served as Canadian representatives on the caucus for Africans and people of African descent. The Canadian Labour Congress spoke at several panels and workshops addressing labour rights and globalization. The Canadian Council of Muslim Women organized a panel in which they called attention to the racism experienced by Muslim women in Canada, and distributed an information booklet discussing these stories.

Understandably, given the wide range of issues on the agenda, there were numerous points of contention between Canadian NGOs and the government as well as within the NGO community itself. For example, many Canadian NGO groups continued to protest Canada's position against reparations. On the last day of the NGO Forum, the Chinese Canadian National Council, the African Canadian Legal Clinic, and the National Association of Japanese Canadians organized a joint press conference that strongly denounced Canada on this issue.<sup>279</sup> Whereas most of the debate on reparations at the World Conference focused on the issue at the international level—that is, as a matter of bilateral and multilateral relations between states—the Canadian NGOs highlighted the issue of reparations as a domestic Canadian issue. They argued that “people of colour have been subjected to racist government policies and laws for over a century and the

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<sup>279</sup> The Chinese Canadian National Council, the African Canadian Legal Clinic, and the National Association of Japanese Canadians, “Canadian NGOs Denounce the Government of Canada over its Position and Record on Reparations,” (August 31, 2001).



Canadian government has yet to acknowledge its responsibility.” Referring to Canada’s policy of charging a head tax on Chinese immigrants in the late nineteenth and early twentieth century, the NGOs noted that the law “resulted in a profit of over 23 million Canadian dollars to the Government of Canada between 1885 and 1923 ... the surviving Head Tax payers and their families have been demanding redress for over twenty years. Their just demands have been consistently denied by the Government that profited from racism.”<sup>280</sup>

Aboriginal organizations in Canada also strongly denounced the government of Canada for its policies toward Aboriginal peoples. The Grand Council of the Crees distributed an information booklet discussing the many challenges facing Aboriginal communities in Canada and the impact of racism on their lives. The report, entitled *Pushed to the Edge of Extinction: Racism Against Indigenous Peoples in Canada*, referred to the situation facing indigenous peoples as “Canada’s hidden shame” and contrasted “the Canada the world knows vs. the Canada indigenous peoples live in” by providing data on issues such as unemployment, poverty, health, education and land rights.<sup>281</sup> In addition, Matthew Coon Come, National Chief of the Assembly of First Nations, delivered a speech at the NGO Forum in which he strongly criticized the qualified use of the term “indigenous peoples” in the draft documents negotiated by states and Canada’s policies toward Aboriginal peoples.<sup>282</sup> In a noteworthy portion of the speech, Coon Come suggested a parallel between the situation of Aboriginal peoples in

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<sup>280</sup> Ibid.

<sup>281</sup> The Grand Council of the Crees, *Pushed to the Edge of Extinction: Racism against Indigenous Peoples in Canada*. (Nemaska: The Grand Council of the Crees, 2001).

<sup>282</sup> Matthew Coon Come, “Remarks of National Chief Matthew Coon Come, World Conference against Racism, Durban, South Africa,” (August 30, 2001).

## Canada and the situation faced by black people in South Africa under apartheid:

In the early 1980's, my generation of Cree people in northern Canada learned of the struggle against apartheid in South Africa. We invited an African National Congress Representative to address our Cree Annual Assembly in Eeyou Istchee, our subarctic traditional territory. We heard of systematic oppression, dispossession, discrimination and violation of human rights. The courage of the people struggling against apartheid inspired us. But the story we heard from South Africa also saddened us because this oppression was being undertaken so massively against the black population in South Africa. We also recognized the racist and colonial syndrome of dispossession and discrimination that was taking place in South Africa from our own experience. As indigenous peoples in North America, this is our story too.<sup>283</sup>

Coon Come's remarks were widely reported in the Canadian media and strongly criticized by the government of Canada. Indian Affairs Minister Robert Nault went so far as to demand that Coon Come apologize for suggesting that Canada's policy toward Aboriginal peoples was comparable to apartheid. Coon Come stood by his remarks.

The discussion of the Middle East at the NGO Forum also generated tensions between Canadian NGOs and the government as well as within the Canadian NGO community itself. The problems with the NGO Forum's discussions of the Middle East were numerous. During the opening ceremony, a representative of SANGOCO—the South African National NGO Coalition and the main organizer of the NGO Forum—wore a keffiyah and called on the international community to “free Palestine,” a gesture which was interpreted by Jewish NGOs as a signal of support for one side of the conflict when the organizing body was supposed to have been neutral on all issues. Throughout the NGO Forum, a small number of NGOs based in the Middle East distributed anti-Semitic cartoons portraying Jews with hooked noses, fanged teeth that dripped blood, and wearing military uniforms displaying the Nazi swastika alongside the Star of David. A poster was distributed that rhetorically asked what the world would look like had Nazi

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<sup>283</sup> Ibid.

Germany won the Second World War and stated that the Middle East would be a better place because Israel would not have been created.<sup>284</sup> One NGO booth sold copies of *The Protocols of the Elders of Zion*. Jewish caucus meetings were routinely interrupted by hecklers. A large political rally held on September 1 in support of Palestine eventually led protestors to gather outside the Durban Jewish Club, a non-political Jewish organization.<sup>285</sup>

When the Jewish caucus informed Mary Robinson of these developments, the High Commissioner spoke to the plenary and condemned the anti-Semitic behaviours in strong terms: “This conference is aimed at achieving human dignity. My husband is a cartoonist, I love political cartoons, but when I see the racism in this cartoon booklet, of the Arab Lawyers’ Union, I must say that I am a Jew—for those victims are hurting. I know that you people will not understand easily, but you are my friends, so I tell you that I am a Jew, and I will not accept this fractiousness to torpedo the conference.”<sup>286</sup> Despite the High Commissioner’s pleas, many felt that the displays did torpedo the conference. Given the extreme nature of the incidents, the international media understandably devoted considerable coverage to this aspect of the NGO Forum.

These developments polarized many within the Canadian NGO community. To be clear, Canadian NGOs were unanimous in their condemnation of the anti-Semitic literature and pamphlets that were being distributed at the NGO Forum. Both the

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<sup>284</sup> Photographs of some of these cartoons and pamphlets are available at the website of Human Rights Voices, <http://www.humanrightsvoices.org/EYEontheUN/antisemitism/durban/?l=36&p=350>, accessed April 22, 2014.

<sup>285</sup> David Matas, “Civil Society Smashes Up,” B’nai Brith Canada Institute for International Affairs, (Undated).

<sup>286</sup> As quoted in Herb Keinon and Janine Zacharia, “Robinson in Durban: I am a Jew,” *The Jerusalem Post*, August 30, 2001.

government and Canadian NGOs agreed that a strong response was needed to counter these views. Where Canadian NGOs differed among themselves was on the issue of what form that strong response should take, specifically whether Canada should withdraw entirely from the World Conference. Whereas Jewish Canadian NGOs felt that the government should consider withdrawing, some other NGOs felt that the government had an obligation to stay at the conference in order to address the many issues on the agenda other than the Middle East.<sup>287</sup>

On the final day of the NGO Forum, participants adopted the NGO Forum Declaration and Programme of Action. Given the many problems that had plagued the NGO Forum, it was not surprising that this process was fraught with numerous procedural problems. First, as mentioned, many NGO participants did not stay for the entire event and thus only a small number of NGOs were present during the adoption of the NGO Forum Declaration and Programme of Action. Second, in order to structure the adoption process, it was decided that each caucus would submit their own set of paragraphs addressing the issues that they deemed most relevant to them. Thus, the indigenous peoples caucus submitted paragraphs pertaining to indigenous peoples, while the labour caucus submitted paragraphs pertaining to labour rights, etc. This system was designed to ensure that each caucus group at the NGO Forum was able to have its issues represented in its own words in the document. However, when the Jewish caucus submitted paragraphs addressing anti-Semitism and Zionism, some caucuses objected to the inclusion of these paragraphs. In a bizarre procedural move, it was decided that caucus groups would vote on the matter. Each caucus as a whole was given a vote on

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<sup>287</sup> Mark MacKinnon, "Pressure's on Canada to Leave Race Forum," *The Globe and Mail*. September 5, 2001. A1.

whether to include or remove the paragraphs submitted by the Jewish caucus, and the majority voted to remove them. No other caucus was subjected to this treatment and members of the Jewish caucus walked out in protest. Effectively, the NGO Forum Declaration and Programme of Action represented the voices of all victims of racism except the voices of the Jewish people.<sup>288</sup>

Despite these problems, it is worthwhile to review the substantive content of the NGO Forum Declaration and Programme of Action. Naturally, the most contentious portions of the document were those that addressed the Middle East. The Declaration referred to Israel as a “colonialist” state that is engaged in a “systematic perpetration of racist crimes including war crimes, acts of genocide and ethnic cleansing” against the Palestinians, which amounts to “Israel’s brand of apartheid.” One paragraph stated: “We declare Israel as a racist, apartheid state in which Israel’s brand of apartheid as a crime against humanity has been characterized by separation and segregation, dispossession, restricted land access, denationalization, ‘bantustanization’ and inhuman acts.” The Programme of Action called for “the reinstitution of UN resolution 3379 determining the practices of Zionism as racist practices” and “the establishment of a war crimes tribunal” to investigate Israel. It further called for the international community “to impose a policy of complete and total isolation of Israel as an apartheid state as in the case of South Africa which means the imposition of mandatory and comprehensive sanctions and embargoes, the full cessation of all links (diplomatic, economic, social, aid, military cooperation and training) between all states and Israel.”<sup>289</sup>

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<sup>288</sup> Sunila Abeysekera, *et al.* “Open Letter to the Durban NGO Forum from Drafting Committee Members of the NGO Forum Declaration and Programme of Action.” (September 4, 2001).

<sup>289</sup> WCAR NGO Forum Declaration and Programme of Action, (September 3, 2001).

Understandably, this language polarized NGO participants, many of whom felt that the language was either factual or legally incorrect or else unfairly singled out Israel while downplaying the policies of other states and non-state actors in the region. For example, the document does not mention Hamas or Hezbollah, nor does it mention Libya, Egypt, Saudi Arabia or Pakistan. Further, Iraq, Iran, Syria and Turkey are each mentioned only once in a paragraph in the Declaration that read, in part: “we are appalled at the situation of thirty million Kurdish people scattered in several countries including Turkey, Iraq, Iran and Syria, who are oppressively prevented from exercising their national legitimate rights of self-determination. We deplore the policies of genocide and practices of ethnic cleansing against the Kurds.” Notwithstanding these remarks, the Programme of Action did not call for any political or legal measures to be taken to address the situation, such as the establishment of an international tribunal or the implementation of sanctions. Thus, the NGO Forum’s discussion of the Middle East was viewed by many as one-sided and inappropriate. One bright spot, however, was the inclusion of strong language condemning anti-Semitism and Holocaust denial. The Declaration noted that:

Antisemitism is one of the oldest, most pernicious and prevalent forms of racism which still exists and is even increasing in many areas of the world; recognizing the dehumanization, persecution and genocide of Jews in the Holocaust, as well as other minorities during and before World War II; deeply alarmed by the continued activities of proponents of Holocaust denial and Holocaust revisionism, Holocaust trivialization, Holocaust minimization and by the channelling of racist rhetoric and calls to violence on the Internet; noting with distress that Jewish people still suffer from persisting prejudices and are victims of a deeply rooted antisemitism in many countries throughout the world.<sup>290</sup>

The NGO Forum also addressed the issue of reparations for slavery and colonialism. One paragraph noted that the:

Trans-Atlantic Slave Trade, slavery and colonialism is a crime against humanity because of its abhorrent barbarism, its magnitude, long duration, numbers of people brutalized and murdered and because of their negation of the very essence of humanity of their victims, therefore, reparations programs must be comprehensive enough in addressing all areas of

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<sup>290</sup> Ibid.

concern including economic, educational, health, land ownership and possession as well as the racially biased systems of administration of justice that brutalize Africans and people of African Descent.<sup>291</sup>

In a notable departure from the way in which states had discussed the issue of slavery and the slave trade, the NGO Forum also acknowledged the trans-Saharan slave trade and the trans-Indian Ocean slave trades. The declaration noted that the “Trans-Saharan and Trans-Indian Ocean Slave Trades and slavery must also be acknowledged and recognized as crimes against humanity, which brutalised communities and stripped people of their dignity, and for which those communities must receive justice and redress.” It further acknowledged the existence of contemporary forms of slavery, noting that the “Trans-Saharan Slave Trade continues unabated to this day, despite international agreements that condemn slavery, and that the trafficking of African men, women and children for forced labour and enslavement is still ongoing in Cameroon, Mauritania, Niger and Sudan.”<sup>292</sup>

Regarding indigenous peoples, the NGO Forum adopted a position strongly at odds with the position adopted by states. The NGO Declaration stated that “Indigenous Peoples are peoples within the full meaning of international law. Indigenous Peoples have the right to self-determination by virtue of which they freely determine their economic, social, political and cultural development and the inherent right to possession of all their traditional and ancestral lands and territories.” In a direct response to the language being used by states, the NGO Forum Programme of Action further stated that “any qualification of the right of Indigenous Peoples to self-determination is racist and is contrary to the fundamental principles of international law. The proposed caveat paragraph (current paragraph 27) of the official WCAR State Declaration is a

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<sup>291</sup> Ibid.

<sup>292</sup> Ibid.

manifestation of racism against Indigenous Peoples and should be deleted in its entirety.”<sup>293</sup>

Some of the other issues on the agenda included Asians and people of Asian descent, the Roma, and impact of the caste system on the Dalits. The document noted that “Asians and Asian Descendents face deep-seated racism and xenophobia, lack access to political, economic and social opportunities, are denied civil rights and liberties, and are victims of especially violent hate crimes, racial profiling, discriminatory employment and unjust immigration policies and practices.” Regarding the Roma people, the document noted that “Anti-Tziganisms is a specific form of racism and racial discrimination against Roma, manifested by stigmatization, flagrant violations of their fundamental human rights, denied access to public services, education, employment, denied participation to decision-making processes at local and central administration levels, persecution, abuse, violence, forced deportation, ethnic cleansing, extermination and ethnocide.” Regarding the Dalits, the document noted that “the practice of untouchability, rooted in the caste system, stigmatizes 260 million Dalits in South Asia as ‘polluted’ or ‘impure’, thereby denying them entry into places of religious worship, participation in religious festivals, assigning them menial and degrading work including cleaning toilets, skinning and disposal of dead animals, digging graves and sweeping, and the forced prostitution of Dalit women and girls through the traditional system of temple prostitution.”<sup>294</sup>

Thus, the NGO Forum Declaration and Programme of Action addressed a variety of diverse issues from around the world. In many cases, this language helped to raise awareness about the impact that racism and racial discrimination have on many

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<sup>293</sup> Ibid.

<sup>294</sup> Ibid.



communities and provided many groups with an opportunity to share their stories and experiences with a wider audience. The various positive aspects of the NGO Forum thus made it all the more unfortunate that the event's problems concerning the treatment of Jewish participants and the discussion of the Middle East had the effect of tarnishing the entire event. A few days following the conclusion of the NGO Forum, organizers of the event were scheduled to present the NGO Forum Declaration and Programme of Action to Mary Robinson. However, due to the language in the document relating to Israel and Zionism, the High Commissioner for Human Rights declined to recommend it for states for their consideration.<sup>295</sup> This marked the first time such a decision had been taken at a UN conference.

In sum, the NGO Forum was a difficult experience for Canada and brought to the forefront a number of divisions between the government and NGOs as well as within the NGO community itself. The remarks by Matthew Coon Come caught the government by surprise and put it on the defensive. Following the earlier national consultation process, which Aboriginal organizations felt was a disingenuous effort by the government more concerned about appearances than reality, the public admonishment by the leader of the Assembly of First Nations further highlighted how the World Conference process had failed to herald the beginning of a new relationship between the government of Canada and Aboriginal communities in Canada. NGO criticisms of Canada's opposition to reparations further highlighted the divide between the expectations of NGOs and the policy positions of the government. Finally, the anti-Semitic displays at the NGO Forum as well as the Declaration and Programme of Action's hostile language regarding Israel

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<sup>295</sup> United Nations Press Release, "World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance: Daily Press Briefing," (September 7, 2001).

created considerable tension within the NGO community, as NGOs were divided on how the government should respond. In the end, the NGO Forum probably did more to fracture the NGO community in Canada than it did to unite them in a common effort to fight racism and racial discrimination in Canada and abroad. Developments at the NGO Forum further contributed to the government's increasingly skeptical attitude toward the entire World Conference and helped inform Foreign Affairs Minister John Manley's decision not to attend the event and send in his place a lower level delegation.

### **7.3 - The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance**

On the eve of the World Conference, Canada was still considering its options regarding its level of participation in the event. More than a year of contentious debate at the three preparatory committee meetings had given Canada a sense that much of the World Conference was going to be an exercise in damage control, rather than a constructive effort to advance global efforts to combat racism and racial discrimination. Certainly, developments at the NGO Forum did not quell Canada's concerns, but served to reinforce Canada's skeptical attitude toward the entire event. Throughout August, Canada publicly stated its concern about discussions pertaining to the Middle East, and said it was carefully reviewing the nature and scope of its participation in the World Conference. The government's approach to the World Conference was summarized by John Manley at the August 30 press conference in which he announced his decision not to attend the event. At the time, Manley stated that "we'll do everything we can to get it back on track, but at this moment, certainly, I'm very concerned with the direction that

it's going and somewhat pessimistic.”<sup>296</sup>

Thus, as mentioned earlier, Hedy Fry replaced John Manley as head of Canada's delegation. As the minister who had led Canada's domestic preparations and headed the delegation at the Regional Conference of the Americas in Chile, Fry was certainly familiar with the various issues and controversies surrounding the World Conference and capable of playing a key role in Durban. At the same time, because Hedy Fry's portfolio as Secretary of State (Multiculturalism)(Women) concerned domestic issues, it was decided that the delegation should also include a senior official whose responsibilities encompassed foreign policy and multilateral diplomacy. For this reason, John Manley asked Paul Heinbecker, the Canadian Permanent Representative to the United Nations and a seasoned veteran of the Department of Foreign Affairs and International Trade, to serve as an alternate head of the delegation. In addition, two members of parliament—Jean Augustine and Irwin Cotler—were selected to serve as senior advisors on the delegation alongside Pat Lorje, the Saskatchewan Minister of Aboriginal Affairs and Lucie Edwards, the Canadian High Commissioner to South Africa, who also served as advisors. The delegation also consisted of 11 officials from the Department of Foreign Affairs and International Trade, 14 officials of the Department of Canadian Heritage, two officials from the Department of Justice, one official from the Department of Indian Affairs and Northern Development, one from the Canadian International Development Agency (CIDA), and eight officials from the Canadian embassy in South Africa. Also serving on the delegation were three officials representing Canadian provinces and two representing Canadian municipalities. Outside of government, the delegation included nine officials representing NGOs, Aboriginal organizations and academia, and four

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<sup>296</sup> CBC News, “Manley Backs Out of UN Racism Conference,” *CBC News*. August 30, 2001.

officials representing the Canadian Human Rights Commission. In total, the delegation consisted of 61 members, representing one of the largest delegations sent by any country to the World Conference.

The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance was held from August 31 to September 8, 2001 and was attended by representatives from 170 countries, including 16 heads of state, 58 foreign ministers and 44 other ministers.<sup>297</sup> Most of these senior figures, however, came from non-Western states, which was indicative of the divisive nature of the preparatory process and the unequal levels of enthusiasm that different states had for the event. More than half of the Heads of State in attendance represented African countries. As was the case at the three Preparatory Committee meetings, various non-state actors also attended the World Conference. These attendees included Palestine; various regional and international organizations, such as the Council of Europe, the Commonwealth, the League of Arab States, the Organization of African Unity, the Organization of American States, the Organization of the Islamic Conference, etc; various UN organs, bodies and programmes, such as the Office of the UN High Commissioner for Refugees, the UN Children's Fund, the UN Development Programme, the UN Development Fund for Women, etc; and several national human rights commissions. Approximately 1300 NGOs were also given accreditation to attend the World Conference, including several dozen from Canada.<sup>298</sup>

Opening addresses were delivered by several key UN officials, including Secretary General Kofi Annan and High Commissioner for Human Rights Mary

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<sup>297</sup> World Conference against Racism, "Report of the World Conference against Racism," A/CONF.189/12.

<sup>298</sup> World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, "Organization of Work." A/CONF.189/8.

Robinson. South African political leaders, such as President Thabo Mbeki, also made introductory remarks. While each of these addresses emphasized the potential of the World Conference to serve as a catalyst for renewed efforts to combat racism and racial discrimination in the new century, some were more willing than others to directly discuss the more contentious issues on the agenda and the difficulties that states had in addressing them. In recognition of the possibility that divisions over the Middle East had the potential to derail the entire World Conference from its central purpose, Kofi Annan encouraged states to “admit that all countries have issues of racism and discrimination to address. Rather than pick on any one country or region, let us aim to leave here with a commitment from every country to draw up and implement its own national plan to combat racism, in accordance with general principles that we will have agreed.”<sup>299</sup>

Organizationally, the World Conference included plenary sessions in which representatives of each state could directly address the entire World Conference. The Conference also included a drafting committee responsible for structuring the negotiations on the draft declaration and programme of action. As was the case at the preparatory meetings, the drafting committee created two working groups—one for the draft declaration and one for the draft programme of action. In general, addresses to the plenary, which were spread out over the course of the entire conference in order to accommodate all states in attendance, were mostly political exercises in which each state re-affirmed its abhorrence of racism and commitment to eradicate racism while downplaying the existence of the problem within its own borders. Thus, African and Caribbean states emphasized the historic wrongs of the slave trade and colonialism and

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<sup>299</sup> Kofi Annan, “Secretary-General Urges Conference to Meet World’s Expectations with Call for Action to Combat Racism,” (August 31, 2001).

spoke of the need for compensation from Western states for these sins, but said little about contemporary forms of slavery and slave-like conditions and other modern-day manifestations of racism on the African continent. Arab and Muslim states aired their grievances with Israel and its treatment of the Palestinians, but said nothing of the human rights situation in their own backyards. Western states conceded that their past actions contained much to be ashamed of, but emphasized their preference for what they called a forward-looking agenda. Some speeches were more provocative than others. For example, Yasser Arafat addressed the World Conference on the opening day and referred to Israel as a “racist” and “colonialist” state, among other things.<sup>300</sup> The speech was criticized by many Western states, including Canada, which said that the language was “totally unacceptable” and constituted “incitement and provocation.”<sup>301</sup>

Canada’s address touched on important issues concerning the government’s historical and present-day treatment of many ethnic groups in Canada.<sup>302</sup> Taken at face value, Canada’s speech was one of the more self-critical speeches delivered to the plenary of the World Conference. While speaking proudly of Canada as a bilingual and multicultural nation, Hedy Fry also said that “Canadians would acknowledge that our history has not always been one of inclusion and respect.” Fry acknowledged the history of “displacement and assimilation” facing Aboriginal peoples that “eroded their social, economic and governance structures.” She spoke of immigrant communities who “came to Canada to escape discrimination, marginalisation and exclusion” only to find that they

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<sup>300</sup> Yasser Arafat, “Address to the Third World Conference against Racism and Racial Discrimination,” August 31, 2001.

<sup>301</sup> Government of Canada, “Canada’s Response to President Arafat Speech to the UN WCAR,” August 31, 2001.

<sup>302</sup> Government of Canada, “Statement to the UN World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,” September 1, 2001.

often “faced these challenges on arrival.” Fry also stated that “visible minorities, in particular African Canadians, still face barriers to full participation in the economic life of Canada.”<sup>303</sup> At the same time, domestic NGOs critical of Canada’s human rights record noted that victims of racism in Canada needed more than speeches from the government, but concrete policies designed to confront and eliminate racism in Canada.

The main work at the World Conference happened at the two working groups of the drafting committees, where daily negotiations took place on the substantive content of the World Conference Declaration and Programme of Action. The Middle East and the issue of reparations remained the two dominating issues on the agenda, while the issue of indigenous peoples also received considerable attention. To help organize these three debates, it was decided that individual states would serve as facilitators to help maintain open dialogue between divided states. Thus, Norway facilitated the debate on the Middle East; Kenya and Brazil jointly facilitated the debate on past injustice, which included the issue of slavery and reparations; while Mexico facilitated the debates on the list of victims, which included efforts to maintain the consensus that states had reached on indigenous peoples.

Although states had completed the negotiations on the rights of indigenous peoples at the Third Preparatory Committee meeting, the issue remained at the forefront due to indigenous peoples’ widespread opposition to the language used in the texts. Led by prominent human rights figures, such as Nobel laureate Rigoberta Menchú, indigenous peoples continued to protest the qualified use of the term peoples contained in the World Conference Declaration and Programme of Action. States responded that they were unable to re-open the negotiations completed during the previous meetings because of

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<sup>303</sup> Ibid.

their concern that any effort to change one part of the agreed upon text might result in other demands—from states and non-state actors alike—to change other portions of the text. With so many controversial issues still left unresolved, states were unwilling to re-open issues that they believed were closed. Thus, while the issue of the rights of indigenous peoples remained widely discussed and contested throughout the World Conference, almost no new paragraphs were added to the language agreed upon at the Third Preparatory Committee meeting, and none that addressed the core issue of the status of indigenous peoples under international law. According to a report by the Canadian delegation, the Canadian view at Durban was that the “substance of WCAR documents is strong and marks real progress and most importantly was adopted by consensus at [the] third prepcom.” The delegation added that the “saving clause” was “not required by Canada” but necessary in order to maintain the approval of other countries.<sup>304</sup> Understandably, Canada’s timid opposition to the so-called saving clause left Aboriginal organizations in Canada deeply unhappy with the government, although they recognized that Canada’s evolving position on the matter was a step in the right direction.

The second major issue on the agenda was the reparations issue. Front and centre were the demands of African states for Western states to accept that the transatlantic slave trade was a crime against humanity and to establish a framework for offering financial compensation to impacted states in Africa. Enoch Kavindele, the Vice-President of Zambia and representative of the African Union, said that African states wanted “the establishment of an international compensation scheme for victims of the slave trade and

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<sup>304</sup> Department of Foreign Affairs and International Trade, “WCAR: Interim Report: Sept 01-Sept02,” September, 2 2001.



a development restoration fund to provide additional resources for the development of countries affected by colonialism.”<sup>305</sup> Although Western states steadfastly refused these demands, there was some discussion among them about whether to offer a symbolic apology for their role in the slave trade, albeit one phrased in such a manner as to concede nothing that could be used against them in any judicial setting that may arise. Within Europe, there was a schism between the most hard line states—the United Kingdom, the Netherlands, Spain and Portugal—who generally opposed any effort to address their role in the slave trade and were generally unwilling to offer even the non-binding symbolic apology, and the remaining European states, that were willing to offer some form of an apology. As the World Conference progressed, European states proposed several possible paragraphs on how to address the issue, some of which included an apology. One suggested proposal read “on behalf of those who have practiced, benefited or unjustly enriched themselves from slavery and the slave trade, the World Conference apologizes unreservedly to the victims of those past tragedies.”<sup>306</sup> Nonetheless, divisions with Europe and opposition from the hard line states ultimately prevented such language from finding its way into the final World Conference documents.

Both the United States and Canada remained entirely opposed to any concession on the reparations issue and refused to support even a symbolic apology. Proposed language by the United States, Canada, Norway, Japan, Australia and New Zealand stated only their “profound regret” for the slave trade, but did not offer a formal apology for the

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<sup>305</sup> CBC News, “Reparations for Slavery Back on Agenda at UN Racism Conference,” *CBC News*, September 4, 2001.

<sup>306</sup> Department of Foreign Affairs and International Trade, “WCAR: Interim Report: Sept 01-Sept02,” September, 2 2001.

practice. The Canadian position, as expressed in the September 8, 2001 statement of reservation, was that “under international law there is no right to a remedy for historical acts that were not illegal at the time at which they occurred.”<sup>307</sup> Although Canada did not support efforts to offer an apology for slavery and the slave trade, and did not offer any such apology for its own past practices of slavery, Canada did state that it “believes that the transatlantic slave trade was morally repugnant and is a stain on the fabric of history” and also that Canada believes that “widespread and systematic enslavement directed against a civilian population today constitutes a crime against humanity, and if the transatlantic slave trade occurred today it would constitute a crime against humanity.”

Several Canadian NGOs strongly objected to Canada’s position of opposing any form of reparations. Throughout the preparatory process, Canada had maintained that it should adopt a forward-looking approach to rectifying past injustices. It should adopt a “multi-faceted approach to the issues of remedies and redress” and “does not believe that granting financial compensation for historical action is appropriate.” The government added that:

Canada has addressed historical actions through measures such as repealing legislation, establishing the Canadian Race Relations Foundation, formally acknowledging and regretting historical action in a Statement of Reconciliation, supporting activities such as the production of films, academic research and other means of commemoration, as well as developing policies that contribute to the beginning of institutional change. While we continue to address the past through such initiatives, we believe that government resources should be used to invest in the future, in the creation of a more equitable society now and a better future for generations to come.<sup>308</sup>

However, for NGOs, such as the National Association of Japanese Canadians (NAJC), this position was viewed as fundamentally contradictory. The NAJC, which had played a

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<sup>307</sup> Government of Canada. “Canadian Statement of Reservation delivered at the World Conference against Racism, Racial Discrimination, Xenophobia and Related intolerance (WCAR).” (September 8, 2001).

<sup>308</sup> Government of Canada, “Canadian Delegation to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance: Intersessional Working Group,” (March 6-9, 2001).

central role in pressuring Canada in the late 1980s to establish reparations for the government's treatment of Japanese-Canadians during the Second World War, noted that the government was effectively reversing its previously adopted position on reparations. Moreover, the group noted, the Canadian Race Relations Foundation was itself established as part of the 1988 Japanese Canadian Redress Agreement.<sup>309</sup> In other words, in arguing that Canada should focus only on moving forward and in citing examples of its efforts to do so, the government had, in fact, promoted one of the more significant efforts it had taken to implement redress for historic injustices. As the President of the NAJC said:

I find that Canada has taken a completely dismissive and hypocritical stance in taking credit for the establishment of the Canadian Race Relations Foundation as an example of its approach to addressing historical actions. In truth, when Japanese Canadians achieved redress, a negotiated term of the agreement was that Canada establish the Canadian Race Relations Foundation. In receiving redress Japanese Canadians believed that Canada was capable of resolving past injustices with fairness, respect and responsibility.<sup>310</sup>

Other Canadian NGOs similarly express frustration at the government's position. Indeed, when Paul Heinbecker delivered Canada's statement of reservation to the World Conference, several Canadian NGOs, particularly some of the ones representing African-Canadians, publicly booed and heckled the speech. Such a public display of dissatisfaction with the government made clear how far the government's relationship with the NGO community had soured over the course of the World Conference.

If the reluctance by Canada and other Western states to support reparations and accept any meaningful responsibility for the transatlantic slave trade and its legacy was a

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<sup>309</sup> Canadian Race Relations Foundation, "Canadian Race Relations Foundation." Accessed April 23, 2014, <http://www.crr.ca/en/component/flexicontent/396-japanese-redress/24039-the-japanese-canadian-redress-agreement>.

<sup>310</sup> National Association of Japanese Canadians, "Canadian Delegation to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance: Intersessional Working Group – March 6-9, 2001, Given at the NGO Briefing September 1, 2001." (September 3, 2001).

clear indicator of these states' pursuit of their own political and economic self-interest, the inability of African states to discuss modern-day slavery and other human rights abuses on the African continent indicated that there was plenty of geo-political posturing to go around. The issue of contemporary slavery in Africa was brought front and centre on the third day of the World Conference during one of the several opportunities provided for individuals and non-state actors to address the World Conference directly. A 17-year old girl from Niger harrowingly described how she and her mother lived as slaves in the West African country, despite domestic laws prohibiting the practice.<sup>311</sup> The address was a powerful rejoinder to the self-interested debates between governments on all sides of the issue and helped to highlight the disconnect between the debates that were taking place within the halls of the United Nations and what was occurring on the ground throughout the world.

After several days of intense negotiations at the World Conference, states did eventually reach a compromise on language addressing slavery and the slave trade. Overall, African states received almost none of what they had wanted. The Declaration and Programme of Action did not issue an apology for the transatlantic slave trade, nor did it demand the establishment of new international mechanisms to address legal and financial reparations between states. It also did not refer to the historic slave trade as a crime against humanity. The document did, however, "acknowledge that slavery and the slave trade, including the transatlantic slave trade, were appalling tragedies in the history of humanity not only because of their abhorrent barbarism but also in terms of their magnitude, organized nature and especially their negation of the essence of the victims, and further acknowledge that slavery and the slave trade are a crime against humanity

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<sup>311</sup> CBC News, "Slavery Story Stuns UN Racism Conference," *CBC News*. September 3, 2001.

and should always have been so, especially the transatlantic slave trade...”<sup>312</sup> The World Conference also made a connection between the impact of colonialism and many of the challenges facing modern day Africa. The Declaration “recognize[d] that colonialism has led to racism, racial discrimination, xenophobia and related intolerance, and that Africans and people of African descent, and people of Asian descent and indigenous peoples were victims of colonialism and continue to be victims of its consequences ... We further regret that the effects and persistence of these structures and practices have been among the factors contributing to lasting social and economic inequalities in many parts of the world today.”<sup>313</sup>

The document made some reference to the historic slave trade that existed throughout Africa and across the Indian Ocean. A paragraph of the Programme of Action invited states and other actors to work with the UNESCO project “Breaking the Silence,” which sought to document the “history of slavery and the trans-Atlantic, Mediterranean and Indian Ocean slave trades.” Although the World Conference did not issue an apology for the historic slave trade, the Declaration did “acknowledge and profoundly regret the untold suffering and evils inflicted on millions of men, women and children as a result of slavery, the slave trade, the transatlantic slave, apartheid, genocide and past tragedies” and further noted that “some States have taken the initiative to apologize and have paid reparation, where appropriate, for grave and massive violations committed.” The Declaration also “call[ed] on all of those who have not yet contributed to restoring the dignity of the victims to find appropriate ways to do so and, to this end, appreciate those

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<sup>312</sup> World Conference against Racism, “Report of the World Conference against Racism,” A/CONF.189/12.

<sup>313</sup> Ibid.

countries that have done so.” Last, the Declaration addressed contemporary practices of slavery and slavery-like conditions. The document “strongly condemn[ed] the fact that slavery and slavery-like practices still exist today in parts of the world and urge States to take immediate measures as a matter of priority to end such practices, which constitute flagrant violations of human rights.”<sup>314</sup>

The last major issue on the agenda of the World Conference was the Middle East. Although other issues on the agenda provoked strong emotions and created sharp divisions between states, none were more contentious than the issues related to the Israeli-Palestinian conflict. Despite the many months of preparations for the World Conference, states entered Durban having agreed on nothing involving how the Conference should approach the Middle East, or even if it should at all. Not surprisingly, states did not reach a meaningful consensus at the World Conference on this contested matter. Arab and Muslim states continued to argue that Israel was an apartheid state guilty of genocide, ethnic cleansing and crimes against humanity. By contrast, Western states maintained that these allegations were false and that the World Conference should not single out one country when there were many others with comparable or worse human rights records. While Arab and Muslim states viewed the Israeli-Palestinian conflict as a racial one, Western states maintained that the conflict was political in nature. After a few days of heated negotiations, and as an indication of how difficult the negotiations had become, Norway withdrew its effort to facilitate the discussions on the Middle East. South Africa replaced Norway in this regard.

Throughout the entire World Conference, there were rumours circulating that the United States, Israel and other Western states might withdraw entirely from the event. On

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<sup>314</sup> Ibid.

September 3, the United States and Israel confirmed that they would be leaving the World Conference to protest the language being used to characterize Israel. US Secretary of State Colin Powell defended this decision by saying that:

following discussions today by our team in Durban and others who are working for a successful conference, I am convinced that will not be possible. I know that you do not combat racism by conferences that produce declarations containing hateful language, some of which is a throwback to the days of 'Zionism equals racism;' or supports the idea that we have made too much of the Holocaust; or suggests that apartheid exists in Israel; or that singles out only one country in the world—Israel—for censure and abuse.<sup>315</sup>

Critics of the United States withdrawal suggested that the decision was also motivated by a desire to avoid addressing the reparations issue. Whatever the reasons, the decision had a significant impact on the dynamic of the World Conference. Both supporters and critics of the United States knew well that the impact of the World Conference would be diminished if it did not have the support of the world's most powerful country. Moreover, the decision of the United States to withdraw increased the probability that other Western states might leave as well, further damaging the Conference. Overall, as Camponovo notes:

It is difficult to gauge the effect of the departure of the United States from the Conference ... some would argue that had the United States stayed in Durban and delayed its threats of departure, it would have been in a stronger position to negotiate acceptable language on this issue. The departure of the United States, on the other hand, provided something of a wake up call to hard-liners, as well as to the South African host, that a compromise was necessary or they would risk Canada and the European Union walking out.<sup>316</sup>

Indeed, Canada faced daily questions from the domestic media about the nature of its participation at the World Conference and whether it was considering withdrawing. These questions were asked prior to the withdrawal of the United States and Israel and

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<sup>315</sup> United States Department of State, "World Conference against Racism." September 3, 2001. Accessed April 22, 2014, <http://2001-2009.state.gov/secretary/former/powell/remarks/2001/4789.htm>.

<sup>316</sup> Camponovo, Christopher. "Disaster in Durban: The United Nations World Conference Against Racism, Racial Discrimination, Xenophobia, and Related Intolerance." *The George Washington International Law Review* 34, 4 (2003): 696.

only increased in frequency following their exit. Although Canada never publicly threatened to withdraw from the World Conference, members of the Canadian delegation did hold several discussions among themselves addressing this possibility. The final authority on the decision, however, remained in the hands of Prime Minister Jean Chrétien. Like most heads of state, particularly those from Western countries, Chrétien did not attend the World Conference. But in recognition of the controversial nature of the event, the Prime Minister made sure to be informed daily about each development at the World Conference. To this end, Hedy Fry and Paul Heinbecker spoke directly to the Prime Minister every day of the Conference. Although the Prime Minister agreed that the contentious language used to characterize Israel was offensive and inappropriate, he also believed that Canada had an obligation to support multilateral diplomacy at the United Nations and to maintain positive relations with the host country, South Africa. Thus, he made the decision that Canada would stay at the World Conference and work to influence the outcome as much as possible to delete the contentious language that Canada found so unacceptable. As explained by Deborah Chatsis, a senior member of the Canadian delegation in Durban and First Secretary of the Canadian Mission to the United Nations, leaving the Conference “was something that was considered” but that “ultimately the Prime Minister decided that we would stay in order to try and influence the outcome of the conference.”<sup>317</sup> Hedy Fry similarly stated that:

Mr. Chrétien made the decision that we would go. He said that if we don't go we don't bear witness, if we don't go we don't get an opportunity to change that document, to speak against it, and to make sure that what passed the United Nations in the end as a declaration and plan of action was indeed consistent with stopping racism, discrimination, xenophobia, etc, because he wanted that to be a successful document. The Prime Minister was very much about multilateralism and about the world working together to change itself as

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<sup>317</sup> Personal interview with Deborah Chatsis, 1st Secretary, Permanent Mission of Canada to the UN, Geneva. (September 12, 2012).



opposed to sort of going on what he felt were things in which we should not shy away from controversy, but Canada had a role to go there and change the story and change the outcome.<sup>318</sup>

Of course, not everyone agreed with this view. Some senior members of the delegation privately believed that Canada should withdraw. Paul Heinbecker recalled that “I thought we should withdraw. I thought we should withdraw because I thought it was turning into a circus.”<sup>319</sup>

One particularly noteworthy aspect of this issue concerns the interactions between Canada and Israel at the World Conference and discussions between the two countries on the issue of staying or withdrawing from the event. Although Canada’s principal reasons for staying concerned the government’s positive view of multilateralism and its relations with both the United Nations and South Africa, key members of the Canadian delegation, as well as key members of the Israeli delegation, indicate that Israel preferred that Canada stay to help combat the combative language pertaining to the Middle East. While Canada empathized with Israel’s decision to leave, Israel recognized that there were advantages to having some of its allies remain at the World Conference to help influence the outcome. Thus, an additional reason that Canada stayed at the World Conference was to help continue the work that Israel was no longer in a position to do itself. That Israel wanted Canada to remain at the World Conference was confirmed by all members of the Canadian delegation interviewed for this project. Hedy Fry stated that:

When we talked to Israel, Israel was glad that we were staying because, they felt, and at that time Canada had that reputation, that Canada would not agree to any document that was hateful or that was discriminatory or that vilified anybody. That was not Canada’s way, and that, in fact, Canada was going to be—they agreed on the state of the language to use was to bear witness to what was happening and to walk away saying this was a failure, this

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<sup>318</sup> Personal interview with Hedy Fry, Secretary of State (Multiculturalism)(Status of Women). (February 17, 2012).

<sup>319</sup> Personal interview with Paul Heinbecker, Canadian Permanent Representative to the United Nations. (August 4, 2011).

was bad, this was terrible, but they also felt that Canada was always trying to change things. So we went.<sup>320</sup>

Paul Heinbecker stated that “the issue of whether the Israelis wanted us to stay, that is the case, that is my clear recollection of the Israelis.”<sup>321</sup>

In addition, this account is confirmed by a senior member of the Israeli delegation at the World Conference. In a letter to the editor published in *The National Post*, Israel’s deputy foreign minister and head of Israel’s delegation to the World Conference Michael Melchior noted that:

after the Israeli delegation had left, I requested from the Canadian delegation that they lead and coordinate the work at Durban to combat the dangerous anti-Semitic language in the final resolution. The Canadian delegation, with its fine record on issues of human rights and combating anti-Semitism and xenophobia, made a remarkable contribution in rallying an unprecedented majority—in UN terms—to remove the hate language from the final official resolution.<sup>322</sup>

The removal of this language was no easy task for Canada and other Western states as the protracted debates on the Middle East lasted until the figurative eleventh hour and beyond. The World Conference was originally scheduled to end on September 7; however, when the day approached and states had yet to finalize the language on the Middle East, they were left with no choice but to extend the Conference by an extra day. This result was an extraordinary reflection of the challenges facing the World Conference. In the end, the sustained efforts of Canada and other states to combat the critical language used to characterize Israel resulted in the removal of almost all of it. The most inflammatory language, which suggested that Israel was a racist and apartheid state guilty of committing genocide and crimes against humanity against the Palestinian

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<sup>320</sup> Personal interview with Hedy Fry, Secretary of State (Multiculturalism)(Status of Women). (February 17, 2012).

<sup>321</sup> Personal interview with Paul Heinbecker, Canadian Permanent Representative to the United Nations. (August 4, 2011).

<sup>322</sup> Michael Melchior, “Cotler’s Great Work at Durban,” *The National Post*. December 8, 2009.

people, did not make it into the final document. The Middle East conflict is mentioned only twice. One paragraph in the Declaration states:

We are concerned about the plight of the Palestinian people under foreign occupation. We recognize the inalienable right of the Palestinian people to self-determination and to the establishment of an independent State and we recognize the right to security for all States in the region, including Israel, and call upon all States to support the peace process and bring it to an early conclusion.<sup>323</sup>

Additionally, a paragraph in the Programme of Action states:

As for the situation in the Middle East, calls for the end of violence and the swift resumption of negotiations, respect for international human rights and humanitarian law, respect for the principle of self-determination and the end of all suffering, thus allowing Israel and the Palestinians to resume the peace process, and to develop and prosper in security and freedom.<sup>324</sup>

The document also contains language addressing racism against Jews, Arabs and Muslims. One paragraph in the Declaration states that “we recognize with deep concern the increase in anti-Semitism and Islamophobia in various parts of the world, as well as the emergence of racial and violent movements based on racism and discriminatory ideas against Jewish, Muslim and Arab communities.” A paragraph in the Programme of Action “calls upon States, in opposing all forms of racism, to recognize the need to counter anti-Semitism, anti-Arabism and Islamophobia world-wide, and urges all States to take effective measures to prevent the emergence of movements based on racism and discriminatory ideas concerning these communities.” The Holocaust is mentioned once, in a stand-alone sentence, and is referred to in the singular with a capital letter H: “We recall that the Holocaust must never be forgotten.”<sup>325</sup>

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<sup>323</sup> World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, “Report of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.” A/CONF.189/12.

<sup>324</sup> Ibid.

<sup>325</sup> Ibid.

The removal of almost all of the language addressing the Middle East was a significant accomplishment for Western states that felt that the World Conference should not be used to address specific conflicts and states. At the same time, Western states remained dissatisfied that any references to the Middle East remained in the document. In its statement of reservation issued on the last day of the World Conference, Canada devoted considerable time to expressing its strong disapproval of the references to the Middle East in the Declaration and Programme of Action. Canada stated that it was “not satisfied with this Conference” because “too much time has been spent on an issue that does not belong here.”<sup>326</sup> After deciding not to withdraw from the Conference over this issue, the government affirmed that:

Canada is still here today only because we wanted to have our voice decry the attempts at this Conference to de-legitimize the State of Israel and to dishonour the history and suffering of the Jewish people. We believe, and we have said in the clearest possible terms, that it was inappropriate—wrong—to address the Palestinian-Israel conflict in this forum. We have said, and will continue to say, that anything—any process, any declaration, any language—presented in any forum that does not serve to advance a negotiated peace that will bring security, dignity and respect to the people of the region is—and will be—unacceptable to Canada.<sup>327</sup>

Canada also faulted some of the document’s references to refugees because Canada interpreted them to be indirectly about the Middle East conflict. Canada opposed what it believed to be an effort by the World Conference to endorse a unilateral Palestinian “right of return” in a manner outside of the framework of a negotiated settlement involving all of the relevant actors in the Middle East peace process. As a result of these objections, Canada concluded by noting that “the Canadian delegation registers its strongest objections and disassociates itself integrally from all text in this document directly or

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<sup>326</sup> Government of Canada. “Canadian Statement of Reservation.”

<sup>327</sup> Ibid.

indirectly relating to the situation in the Middle East. We state emphatically that this text is ultra vires; it is outside the jurisdiction and mandate of this Conference.”<sup>328</sup> Although various other Western states issued their own statements of reservation faulting the World Conference’s discussion of the Middle East, Canada’s public statement was among the strongest and most critical. It left no room for doubt about Canada’s dissatisfaction with the manner in which the World Conference approached the Middle East.

While the Middle East, the issue of slavery and reparations, and the rights of indigenous peoples were among the more controversial issues on the agenda of the World Conference, and the ones that received the most attention from states, the final Declaration and Programme of Action addressed various other issues as well. The World Conference adopted language addressing Asians and people of Asian descent, Roma/Gypsies/Sinti/Travellers, migrants, refugees, and internally displaced persons, and Mestizo populations. As noted earlier, much of the final language was agreed upon at the Third Preparatory Committee Meeting, and does not need to be repeated here. In general, this language did not provoke heated debate between states and made a helpful contribution to the efforts to combat racism, racial discrimination, xenophobia and related intolerance impacting these diverse communities.

#### **7.4 - Conclusion**

The World Conference against Racism was a difficult experience for Canada. While the government had hoped to use the event as an opportunity to showcase the diversity and multiculturalism of modern-day Canada, and to help build a global

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<sup>328</sup> Ibid.

consensus in an effort to combat racism and racial discrimination, it instead discovered that much of its efforts would be diverted toward diplomatic damage control.

Domestically, Canada had to contend with a variety of Aboriginal organizations and NGOs that were deeply unhappy with the government's policy positions pertaining to historical injustices and the issue of reparations. For many of these groups, the government's policy of adopting a forward-looking agenda indicated that it was not serious about addressing the political and economic legacy of racist policies, such as the establishment of residential schools, the practice of slavery in pre-Confederation Canada, the implementation of the Head Tax, and the destruction of Africville, among other such policies. This fundamental divide between the government, NGOs, and Aboriginal organizations was simply too big to resolve at the World Conference. Internationally, the dominance of the Middle East on the agenda meant that Canada had to devote considerable time and effort to ensuring that the most inflammatory language was removed from the final documents. The World Conference was never going to be a forum that brought people together in a common effort to promote the Middle East peace process, but it did have the potential to drive them further apart. Thus, for Canada, diplomatic success was defined by the degree to which failure was avoided.

The World Conference was also a difficult experience for Canadian NGOs. The Youth Summit was too disorganized to have much of an impact on Canadian and international politics. The NGO Forum was a disaster; the positive work of so many Canadian and international NGOs was ultimately overshadowed by the efforts of a few groups to use the event to promote anti-Semitism and a one-sided political agenda pertaining to the Middle East. The discussion of the Middle East at the NGO Forum and

at the World Conference publicly exposed deep divisions between Canada and many Canadian NGOs, and likewise produced significant tensions within the Canadian NGO community. Whereas many Jewish-Canadian NGOs believed that Canada should take a hard-line against those who wished to use the World Conference to target Israel, and that Canada should have more seriously contemplated withdrawing from the event, many other groups felt that the government had an obligation to remain at the World Conference in order to address the myriad of other issues on the agenda. While all Canadian NGOs strongly condemned the anti-Semitic language that occurred throughout the NGO Forum, there were strong differences about how they wanted Canada to respond. These differences remained in the NGO community well after the conclusion of the World Conference. For both the government of Canada and the NGO community, the World Conference was a missed opportunity that likely caused more problems than it solved.

## **CHAPTER 8: CONCLUSION**

While Canada's participation at the World Conference against Racism was a difficult experience for both government and non-government officials, it also serves as an illustrative case study on the foreign policy making-process in Canada and the role that Canada can play on the world stage in helping to shape negotiations at the United Nations. In chapter 2, I reviewed some of the literature addressing both the domestic and international sources of Canadian foreign policy. Two key research questions were posed. First, to what extent was the Canadian state autonomous from civil society and non-state actors during the creation and implementation of its policy toward the 2001 United Nations World Conference against Racism? Second, what role did Canada play internationally during the negotiations that led to the Durban Declaration and Programme of Action and how can this role be assessed against competing theories of Canada's role on the world stage? In the subsequent chapters, I presented the evidence of the case study examining Canada's role at the World Conference. The goal of this last chapter is to assess the two research questions in the context of the evidence provided.

The first question concerns the question of state autonomy in the Canadian foreign policy-making process. In exploring this issue, I drew upon three inter-related debates in the literature on this topic. The first debate addressed the tripartite discussion between liberal-pluralist theory, Marxian theory and statist theory. The second addressed the role of interest groups and NGOs in Canadian foreign policy. The third addressed the issue of the "democratization" of Canadian foreign policy. Although each debate addresses a distinct set of questions, there is considerable overlap between each of the three debates. Broadly, all are concerned with the interaction between state and non-state



actors in the making of Canadian foreign policy. The second question concerned the role of Canada within the international system. In examining this issue, I drew upon the debates between views of Canada as either a middle power state, a satellite/dependent state, or a principal power state. Taken together, the two questions address both the domestic and international sources of Canadian foreign policy. Because Canada's preparations for, and participation at, the World Conference against Racism involved a mix of domestic preparations and international negotiations, it provided a good case study to explore these two research questions.

### **8.1 - State autonomy and the domestic determinants of Canadian foreign policy**

Canada's domestic consultation process for the World Conference began in May 2000 when the government met with about two dozen individuals from the NGO community, and culminated in February 2001, with a national consultation that involved hundreds of NGO officials. Seven regional consultations were held across Canada as was a separate consultation meeting for Aboriginal peoples. Many of the NGOs and Aboriginal organizations that participated in these consultations also accompanied the government delegation to various international meetings—in Santiago, Geneva and, of course, the Durban Conference itself. The Department of Canadian Heritage also established two Advisory Committees to assist Hedy Fry in her domestic preparations for the World Conference. Thus, the government established a variety of mechanisms intended to include domestic non-state actors in the World Conference process. What can this overall experience tell us about state autonomy, interest group activity and democratization in the Canadian foreign policy-making process?

Overall, Canada's experience with the World Conference against Racism fits the expectations of statist theory. While the domestic consultation process provided numerous opportunities for dialogue between government and various domestic stakeholders, this process did not ultimately provide NGOs with significant influence over the government's actual decision making-process. The most important decisions made by the government occurred behind closed doors and were publicized to domestic stakeholders in a manner that left them feeling like their voices had not been given much weight. Five key points during the World Conference process illustrate this conclusion.

First, the government's initial stated purpose of holding the domestic consultation process was to solicit feedback from stakeholders toward the establishment of a Canadian domestic declaration and plan of action to combat racism. The government intended to complete this initiative during the World Conference preparatory process and use it as the basis for the articulation of Canada's principles and policy goals during the negotiation process. Upon the completion of the World Conference, the government planned to use both the domestic declaration and plan of action, as well as the Durban Declaration and Plan of Action, as the bases for its subsequent policy approach to its efforts to combat racism in Canada. However, this initiative did not proceed as planned because the government never fulfilled its plan to produce a domestic declaration and plan of action. In March 2001, about two weeks after the completion of the national consultation, the government attended the inter-sessional meeting in Geneva and announced its 12 priorities for the World Conference. While the 12 priorities contained much that could satisfy the NGO community, it also fell substantially short of what stakeholders at the domestic consultations were promised. The 12 priorities announced no new funding and

no new government programs. Instead, it offered only general platitudes that lacked clear goals, timelines and accountability mechanisms. Moreover, the process by which the government announced the 12 priorities completely blindsided the NGO community in Canada, who had no indication from the government that it was planning to change course so suddenly. NGOs were stunned that the government was offering so little following the domestic consultations, and were left feeling like the process amounted to far less than what they had been led to believe.

Second, the sequencing of key events during the preparatory process resulted in the government making important decisions prior to the completion of the domestic consultation process. This greatly limited the ability of NGOs to influence the government's decision-making process. The first Preparatory Committee meeting was held in May, 2000, during which time the domestic consultation process was only just beginning to take shape. No formal consultations with any NGOs had occurred prior to the meeting in Geneva. Although Canada characterized the meeting as a mostly technical and process-oriented meeting, the event actually addressed some substantive issues on the agenda. Most significantly, governments decided on the five themes of the World Conference and had to address the issue of reparations. Canada and other Western countries thus had to declare their position on this matter at a very early stage in the preparatory process. African-Canadian NGOs felt particularly disappointed that Canada had taken such a strong position against reparations, especially because it appeared to shut the door on further discussion of the issue during the domestic consultations.

The Regional Conference of the Americas was also held before the domestic consultation process had been completed. As originally scheduled by the government, the

regional consultations would culminate in a national consultation that would be completed in November, before the government departed to Chile in December. This schedule was disrupted by the government's decision in October to hold a snap election, which was held on November 27, 2000. As a result of the election campaign, the government's preparations for the World Conference against Racism ground to a halt during the months of October and November, and the national consultation was postponed until February, 2001. In the meantime, the government attended the meeting in Chile and announced important government positions, particularly with respect to Aboriginal peoples.

Third, while the government's decision to allow NGOs to accompany it to the various preparatory meetings and the World Conference itself allowed for NGOs to serve as witnesses to some of what transpired during diplomatic negotiations between Canada and other states it did not translate into much influence for these groups. Meetings between the government and Canadian NGOs facilitated discussion, but most of this discussion occurred in the form of the government informing NGOs about decisions that had been made and challenges that Canada faced in the context of the negotiations over contentious issues. NGOs found themselves in a position to react to the unfolded developments, but without the capacity to shape them.

One particular issue on which Canadian NGOs could have been reasonably expected to influence the government's position pertained to the government's decision to stay at the World Conference until the completion of the event. As mentioned, the government seriously considered the possibility of withdrawing alongside the United States and Israel, and the Canadian NGO community was divided on this issue. Jewish

Canadian groups strongly pressed for Canada to withdraw from the World Conference, but Canada's decision to stay indicates that these groups did not have decisive influence over the government's decision making-process at this crucial stage in the World Conference.

Fourth, members of each of the two Advisory Committees established to assist Hedy Fry reported a feeling that the committees were less influential than they had hoped at the outset. The Advisory Committees had limited budgets and time to organize their work. Like many NGOs, they were keenly aware that their advocacy efforts operated outside of the formal channels of government. On the key policy issues, they found themselves having to respond to decisions made by government, rather than serving as key actors in the decision-making process. As one member of the Civil Society Advisory Committee put it: "In terms of making or formulating government policy, its role was not as significant as I had anticipated that it might be because government policy is made in government, and although outside advisors are used, I could see that in this case the role of the outside advisors would be to serve in an advisory capacity but in a somewhat limited way."<sup>329</sup>

Fifth, the government's efforts to consult specifically with Aboriginal peoples in Canada produced very little constructive engagement, and may have even driven the two sides further apart insofar as it raised expectations that were not met. While the government repeatedly boasted of its efforts to consult with Aboriginal peoples, Aboriginal peoples strongly rejected the government's view that they had been properly consulted during the process. The government's effort to hold a separate Aboriginal

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<sup>329</sup> Personal interview with Gerald Gall, Vice-President and Treasurer of the John Humphrey Centre for Peace and Human Rights, (September 28, 2011).

consultation occurred in April 2001, two months after the national consultation, and far too late in the process to be incorporated into the government's overall approach. The Aboriginal Advisory Committee likewise did not establish a productive relationship with the government. Members of the committee distrusted the government's motivations and were skeptical that the government's participation in the World Conference against Racism would make any meaningful progress toward reconciling its relationship with Aboriginal peoples in Canada.

Thus, the government's overall approach to the World Conference against Racism was consistent with the expectations of statist theory. The most important decisions were made by government officials behind closed doors. Efforts to consult domestic actors occurred on the government's terms and provided NGOs and Aboriginal organizations no meaningful influence over key policy decisions.

With respect to the role of interest groups and NGOs, it is clear that the World Conference against Racism process provided them with numerous opportunities to engage in advocacy work on behalf of their values and interests. These groups sought to influence government both directly and indirectly. Directly, they met with government officials to present their views and lobby the government to adopt policy consistent with these views. Indirectly, they sought to inform their members and the general public about the World Conference process and the various issues on the agenda. Thus, interest groups and NGOs sought to shape both policy outcomes as well as the broader policy environment in which government decisions are made. As mentioned, interest groups and NGOs found little success in their efforts to directly shape policy outcomes.

The question of whether interest groups and NGOs were able to influence the

broader policy environment is difficult to assess as this would require an analysis of a much larger time period than the present case study can provide. But if we are to analyze interest group and NGO activity during the World Conference process in a larger context that views these efforts as a part of a longer process that began well before the World Conference and continued well beyond, then it is reasonable to conclude that interest group and NGO activity during the World Conference process had some impact on the policy environment in Canada.

In the years following the World Conference, many of the NGOs involved in the process continued to engage in the same kind of advocacy work that they had done during the World Conference preparatory process—issuing press releases, holding panels, workshops and other public events, and meeting with government officials to lobby for policy change. One notable post-World Conference event occurred in October 2002 when the Canadian Race Relations Foundation organized a four-day conference in Edmonton, Alberta, entitled “Strengthening the Agenda Against Racism in Canada: Priorities for Action.”<sup>330</sup> The event was attended by more than 100 individuals from government and non-government, including Minister Jean Augustine, who had by that time succeeded Hedy Fry as Secretary of State (Multiculturalism) (Status of Women), and who received the conference’s final report which contained more than 175 policy recommendations. A second key post-World Conference event occurred in September 2003 when the government invited United Nations Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance Doudou Diène to visit Canada to examine the situations facing Aboriginal peoples and racial minorities in

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<sup>330</sup> Canadian Race Relations Foundation, “Strengthening the Agenda against Racism in Canada: Priorities for Action,” (October 24-27, 2002).

Canada and the government's policy initiatives to address racism in Canada in the context of the aftermath of the World Conference against Racism.<sup>331</sup> During this visit, the Special Rapporteur met with both government and non-government officials, many of whom were involved in the World Conference. Third, in 2005, the government eventually got around to releasing its domestic action plan against racism.<sup>332</sup> The government allocated a budget of \$56 million over five years to implement the plan, which highlighted six priority areas:

- 1) Assist victims and groups vulnerable to racism and related forms of discrimination
- 2) Develop forward-looking approaches to promote diversity and combat racism
- 3) Strengthen the role of civil society
- 4) Strengthen regional and international cooperation
- 5) Educate children and youth on diversity and anti-racism; and
- 6) Counter hate and bias<sup>333</sup>

Much like the government's positions at the World Conference, the policy was drafted by the government according to its own preferences. As expected, some NGOs questioned the adequacy of the plan of action. Nonetheless, the document likely would not have been released at all had it not been for the persistent work of Canadian NGOs during the World Conference process and its aftermath. In this sense, it is reasonable to suggest that NGO activity during the World Conference played a role in shaping the policy environment in Canada in the years following the World Conference.

Another example of Canadian NGOs helping to shape the policy environment can be seen by examining their role in pressuring the government to enact domestic

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<sup>331</sup> United Nations Commission on Human Rights, "Report by Mr. Doudou Diène, Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance." E/CN.4/2004/18/Add.2.

<sup>332</sup> Department of Canadian Heritage, *A Canada for All: Canada's Action Plan against Racism* (Ottawa: Department of Canadian Heritage, 2005).

<sup>333</sup> Ibid, 12.



reparations in response to past racially motivated injustices. These efforts preceded the World Conference and continued in the subsequent years, but the World Conference preparatory process can be seen as one part of this larger process.

The 1988 Japanese-Canadian Redress Agreement was a landmark event in the history of the domestic reparations movement in Canada and influenced many similar redress efforts by other racial groups in Canada, such as Aboriginal peoples, Chinese Canadians, and African-Canadians. Although the government was not very receptive to these efforts during the 1990s, the government did return to them in the first decade of the twenty-first century. In June 2006, the government offered a formal apology and some monetary compensation to individual Chinese Canadians who had been subjected to the Head Tax policy that existed from 1885 to 1923. In June 2008, the government formally apologized to Aboriginal peoples for the government's policy of assimilation and the establishment of the residential school system. The government also established an Indian Residential Schools Truth and Reconciliation Commission. In February 2010, the federal government partnered with the city of Halifax to offer a formal apology and financial compensation to African Canadians impacted by the destruction of Africville in 1960s. Although an examination of all of the political factors that shaped each of these three government decisions is beyond the scope of this dissertation, it is reasonable to conclude that these outcomes likely would not have occurred in the absence of sustained lobbying efforts by various Canadian NGOs over the course of many years. Most of the NGOs and organizations that lobbied the government for these three respective apologies and reparations agreements were the same ones that were heavily involved in the domestic preparations for the World Conference against Racism. Thus, the lobbying efforts that

occurred during the World Conference process can be seen as part of a larger effort engaged in by these groups to shape government policy on the issue of reparations. By keeping these issues on the political radar of the both the general public and the government, the interest groups and NGOs that participated in the domestic consultations and international meetings in Santiago, Geneva and Durban helped to create the political environment in Canada that eventually led to the government adopting reparations policy.

Thus, on the question of whether interest group and NGO participation in the World Conference process helped to democratize the Canadian foreign policy-making process, it is fair to suggest that their participation had some democratizing impact, but not an overwhelming one. Canadian foreign policy continued to be made behind closed doors by a relatively small number of government officials and was designed to primarily serve the interests of the state. However, the numerous opportunities provided for NGOs to participate and observe the process helped somewhat to create greater transparency during the process. Certainly, the absence of these opportunities would have resulted in the policy making-process being even more opaque than it already was. Nonetheless, the overall experience of Canada's preparations for, and participation at, the World Conference against Racism best fit within the expectations of statist theory. The government possessed considerable autonomy in the policy-making process and there was not much room for interest groups and NGOs to influence—or democratize—the outcome.

## **8.2 - Canada on the world stage**

Canada's international preparations for the World Conference against Racism

began in May 2000 when it attended the first of three international Preparatory Committee meetings in Geneva. Canada attended the Regional Conference of the Americas in Santiago, Chile, in December, 2000. And, of course, Canada sent a large delegation to the World Conference in Durban. At each of these meetings, Canada was an active participant and sought to exert what influence it could to shape the negotiations in a direction favourable to Canada's interests. Academic debates about the international determinants of Canadian foreign policy differ about both the nature of Canada's interests and its geopolitical capacity to pursue and attain these interests. What can Canada's participation during the World Conference against Racism tell us about Canada's role on the world stage? What light can this experience shed on the academic debates about Canada as a middle power, a satellite/dependent state, or a principal power?

In order to address this question, it is useful to examine Canada's participation in the negotiations on each of the three main debates during the World Conference process—the Middle East, the legacy of the transatlantic slave trade and colonialism, and the rights of indigenous peoples. Canada had a clear national interest regarding each of these issues and sought to use the World Conference as a forum to help advance these interests. Each of these three issues will be examined in turn.

Regarding the Middle East, Canada went to the World Conference with a clear position that the entire Middle East conflict was not an appropriate topic for discussion at the event and should never have been placed on the agenda in the first place.

Accordingly, Canada took every opportunity to denounce the language that was being used throughout the preparatory process to characterize Israel in a negative light. Almost none of this language made its way into the final Declaration and Programme of Action,

and what little references to the Middle East that did make it in were unequivocally denounced by Canada.

Canada's approach to the Middle East issue at the World Conference was shaped by its longstanding policies toward the region that had developed over several decades, and was both a reflection of Canada's interests in the region as well as the interests of other Western states in the Middle East. The core of Canada's policy is support for a negotiated settlement between Israel and representatives of Palestine, in accordance with UN Security Council Resolution 242 and 338 and other sources of international law, that would result in a two state solution that respects both Israel's right to live in security and the Palestinian right to self-determination. Canada does not recognize Israel's permanent control over territories occupied following the 1967 war or Israel's subsequent annexation of East Jerusalem, and considers that the Fourth Geneva Convention is applicable to the occupied territories. Canada believes that final status issues such as borders, the status of Jerusalem and the Palestinian refugee situation should be negotiated among the relevant parties within a framework of international law. Following the Second Intifada that began in the autumn of 2000, Canada took a stronger position against groups such as Hamas, Islamic Jihad and Hezbollah and has designated them as terrorist entities.<sup>334</sup> In this sense, Canada's position represents a balanced approach that emphasizes the supremacy of international law and rejects any unilateral action taken by either side that compromises the peace process.

Perhaps the most relevant part of Canada's Middle East policy with respect to its

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<sup>334</sup> Department of Foreign Affairs and International Trade, "Canadian Policy on Key Issues in the Israeli-Palestinian Conflict," Accessed April 22, 2014, [http://www.international.gc.ca/name-anmo/peace\\_process-processus\\_paix/canadian\\_policy-politique\\_canadienne.aspx?lang=eng](http://www.international.gc.ca/name-anmo/peace_process-processus_paix/canadian_policy-politique_canadienne.aspx?lang=eng).

approach to the World Conference was Canada's rejection of what it considered to be one-sided discussions at the United Nations and other forums that assigned blame to only one side of the conflict while effectively absolving the other side of any responsibility for the failure to reach a lasting peace agreement. In the years following the World Conference against Racism, Canada formalized this position by indicating that:

Every year, resolutions addressing the Arab-Israeli conflict are tabled in the United Nations, such as at the United Nations General Assembly and the Human Rights Council. Canada assesses each resolution on its merits and consistency with our principles. We support resolutions that are consistent with Canadian policy on the Middle East, are rooted in international law, reflect current dynamics, contribute to the goal of a negotiated two-state solution to the Arab-Israeli conflict, and address fairly and constructively the obligations and responsibilities of all parties to the conflict. Canada advocates a fair-minded approach and rejects one-sided resolutions and any politicization of the issues. Successive Canadian governments have been concerned about the polemical and repetitive nature of many of the numerous resolutions. Canada believes that the United Nations and its member states have a responsibility to contribute constructively to efforts to resolve the Israeli-Arab conflict. Canada will continue to examine carefully each of these resolutions as they come forward.<sup>335</sup>

Canada's overall approach to the discussions of the Middle East at the World Conference adhered to these principles. In this sense, Canada's approach on this issue reflected traditional middle power diplomacy. Canada rejected efforts by some states to divert the World Conference away from its intended purposes and turn it into a one-sided attack against one particular member state. In addition, Canada demonstrated its commitment to Middle Power diplomacy through its decision to stay at the World Conference until the end. The withdrawal of the United States and Israel while European states decided not to follow suit created a small schism in the Western bloc that allowed Canada to chart its own path. By exerting what influence it could to steer the World Conference away from chaos, Canada sought to salvage the event from the efforts of other states with more parochial interests and keep the focus on global efforts to combat racism and racial discrimination. Moreover, Canada proved to be successful in this regard

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<sup>335</sup> Ibid.

insofar as it helped to eliminate the most inflammatory language from the World Conference texts, and was even praised by Israel for its achievements in this regard. Overall, Canada's decision not to withdraw from the World Conference, but to stay and strive to work toward a more favourable (or less unfavourable) outcome was an indication of its commitment to multilateralism and the United Nations process.

Regarding the issue of reparations, however, the debate played out along the more traditional North-South axis. Canada appeared less independently minded and quickly adopted a position that was effectively indistinguishable from the position adopted by the United States and the European Union. Canada was in no sense 'in the middle' between Western states and developing world states in Africa and the Caribbean. Certainly, this was the conclusion reached by several Canadian NGOs involved in the World Conference. Officials in the Department of Foreign Affairs and International Trade noted that "some NGOs ... indicated that Canada is perceived as a member of a Western bloc preventing successful negotiations on language regarding compensation."<sup>336</sup> Throughout the entire preparatory process—beginning at the First Preparatory Committee Meeting in May 2000 and especially at the Regional Conference of the Americas when Canada joined the United States as the only two countries in attendance to formally reject certain provisions in the regional document—Canada steadfastly opposed any suggestion that states establish any sort of international compensation mechanism within the United Nations or some other framework. Nor did Canada make any meaningful effort at finding a middle ground compromise position, such as emphasizing debt relief for less developed countries or an increase in foreign aid funding from the West. The suggestion that

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<sup>336</sup> Department of Foreign Affairs and International Trade, "WCAR: Interim Report: Sept 01-Sept02," September, 2 2001.

Western states offer an apology for the legacy of the transatlantic slave trade and colonialism was too much for Canada, even if the apology were to be written in a manner intended to avoid opening the door to legal obligations. From beginning to end, the entire issue was a non-starter for Canada. Thus on the issue of reparations, Canada's position less resembled that of a Middle Power and more of that of a satellite state within the orbit of the Western bloc.

Canada's approach to the rights of indigenous peoples ended up somewhere in between the dueling expectations of Middle Power theory and satellite/dependent state theory. On the one hand, Canada's position regarding the status of indigenous peoples as "peoples" under international law did undergo a gradual evolution throughout the 1990s and resulted in Canada accepting the legal argument that indigenous peoples were a "peoples" and thus had a right to self-determination. On the other hand, Canada did little to publicize its position on the matter. When the issue first arose in the context of the World Conference—at the Regional Conference of the Americas—Canada did not directly state its position one way or the other in any of its public statements. However, what Canada appeared to do was privately inform key leaders at several Aboriginal organizations that Canada had revised its position. This represented progress, but of a very timid kind. By conveniently refraining from stating its revised position publicly, Canada apparently sought a path of least resistance. Canada had one message for Aboriginal peoples in Canada, but another for international audiences and other states in which Aboriginal peoples reside. A decision to publicly affirm the right of indigenous peoples as peoples would have given a significant boost to the efforts of Aboriginal peoples throughout the Western hemisphere and the entire world, but Canada chose to

remain silent, perhaps to avoid disturbing the interests of the United States and other countries that publicly rejected the view that indigenous peoples were a peoples under international law.

Overall, therefore, Canada's contribution to the World Conference against Racism with respect to most dominant issues on the agenda provided a mixed assessment of Canada's role on the world stage. At times, Canada appeared timid and motivated more by a desire to preserve state sovereignty and the status quo than by a desire to boldly advance a human rights and anti-racism agenda, at least within the context of the World Conference against Racism. On the issues of reparations and the rights of indigenous peoples, Canada made scant effort to diverge from the consensus that existed within the Western bloc. But at other times, Canada sought to ensure that the World Conference produce the best possible outcome given the circumstances. Canada's effort to eliminate the most contentious language concerning the Middle East was a particular highlight in this regard.

While the World Conference against Racism was a difficult experience for Canada it also served as an illustrative case study into the Canadian foreign policy-making process. To be sure, a case study of a single event is not intended to provide a universal theory of Canadian foreign policy that exists across all time and space. Rather, the analysis of the case study provides a snapshot of the process as it existed at a particular point in history. Still, the case study adds to the study of Canadian foreign policy by facilitating an examination of both the domestic and international factors that help to shape it.

At the domestic level, the study shows the continued value of statist theory by



demonstrating that the state possessed considerable autonomy from domestic societal actors in its ability to control the policy agenda and implementation throughout the World Conference process. Key decisions were made by government officials behind closed doors and domestic actors were often left in a position where they had to react to decisions that had been made rather than proactive work with government to help shape them.

At the international level, the results of the case study are more mixed. In some areas, Canada appeared constrained by the broader geo-political forces that shaped world politics. Bloc politics remained an important factor throughout the World Conference process. Accordingly, Canada's positions oftentimes reflected the positions adopted by other states in the Western bloc, and particularly the United States. At the same time, Canada did find some opportunities to chart its own middle power path and advance its own Canadian interests. Canada's role on the world stage thus provided both opportunities and constraints for action at the World Conference against Racism.

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## **APPENDIX A: INTERVIEWEES<sup>a b</sup>**

### **Canadian Government**

Fatima Ameen, Senior Program Manager, Partnership Branch, Canadian International Development Agency, October 15, 2012

Deborah Chatsis, First Secretary, Permanent Mission of Canada to the United Nations, Geneva, September 10, 2012

Hedy Fry, Secretary of State (Multiculturalism) (Status of Women), February 17, 2012

Marie Gervais-Vidricaire, Director-General, Global Issues Bureau, Department of Foreign Affairs and International Trade, July 25, 2012 and July 27, 2012

Paul Heinbecker, Permanent Representative to the United Nations, August 4, 2011

Wayne Lord, Director Aboriginal and Circumpolar Affairs Division, Department of Foreign Affairs and International Trade, September 19, 2012

Don Sinclair, Director, Middle East Division, Department of Foreign Affairs and International Trade, October 10, 2012

Anonymous

### **Non-Government**

Michèle Audette, Chair, Aboriginal Advisory Committee and President, Quebec Native Women's Association, November 29, 2011

Sandra Carnegie-Douglas, Executive Coordinator, National Action Committee on the Status of Women and Chair, African Canadian Coalition against Racism, April 3, 2012

Irvine Carvery, President, Africville Genealogy Society, September 20, 2012

Salima Ebrahim, National Board Member, Canadian Council of Muslim Women, February 9, 2012

Karl Flecker, Director, Anti-Racism and Human Rights Department, Canadian Labour Congress, January 26, 2012

Gerald Gall, Member, Civil Society Advisory Committee and Vice-President and Treasurer, John Humphrey Centre for Peace and Human Rights, September 28, 2011

Avvy Go, Executive Director, Metro Toronto Chinese and Southeast Asian Legal Clinic, April 10, 2012

Jamie Koebel, National Association of Friendship Centers, Aboriginal Youth Council, February 29, 2012

Keith Landy, President, Canadian Jewish Congress, September 13, 2011

Yaroslav Lozowchuk, Ukrainian Canadian Congress, July 17, 2012

Keiko Miki, President, National Association of Japanese Canadians, June 22, 2012

Karen Mock, Chair, Civil Society Advisory Committee and National Director, League for Human Rights of B'nai B'rith Canada, October 28, 2011

Margaret Parsons, President, African Canadian Legal Clinic and Co-chair of the National NGO Steering Committee, May 18, 2012

Sherene Razack, Professor, University of Toronto, Ontario Institute for Studies in Education, May 9, 2012

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<sup>a</sup> Positions and institutional affiliations refer to those held at the time of the World Conference against Racism.

<sup>b</sup> Research for this dissertation was approved by The University of Western Ontario Research Ethics Board for Non-Medical Research Involving Human Subjects (NMREB) on December 11, 2009, Review Number 16575S.

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Comprehensive exam fields: International Relations, Comparative Politics

**M.A., Political Science**, The University of Cincinnati, 2007

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#### **Publications**

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Seligman, Steven. “Canadian Foreign Policy toward Sri Lanka under the Harper Government: Principled Stand or Electoral Gambit?” Paper to be presented at the International Studies Association Annual Conference, New Orleans, LA, February 18-21, 2015.

Seligman, Steven. “Examining the Domestic Sources of Canada’s Policy toward the 2001 United Nations World Conference against Racism.” Paper presented at the Canadian Political Science Association Annual Conference, St. Catharines, ON, May 27-29, 2014.

Seligman, Steven. “Politics and Principle at the UN Human Rights Commission and Council (1992-2008).” Paper presented at the International Studies Association Annual Conference, New York, NY, February 15-18, 2009.

Seligman, Steven. “The Creation of the UN Human Rights Council: Who Wanted What and Why?” Paper presented at the International Studies Association-Midwest Annual Conference, St. Louis, MO, November 3-5, 2006.

## **Teaching Experience**

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